TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1907.

No. 136.

HERRING-HALL-MARVIN SAFE COMPANY,
PETITIONER,

vs.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, AND CHARLES O. HALL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

PETITION FOR CERTIORARI FILED OCTOBER 12, 1906.
CERTIORARI AND RETURN FILED NOVEMBER 5, 1906.

(20,427.)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 25, 1907.

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Certified Copy.

No. 1494.

United States Circuit Court of Appeals, Sixth Circuit.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL, Appellants,
vs.
HERRING-HALL-MARVIN SAFE COMPANY, Appellee.

Appeal from the Circuit Court of the United States for the Southern District of Ohio.

Record.

Original transcript filed Sept. 21, 1906.
Filed Mar. 5, 1906.

FRANK O. LOVELAND.

1

Transcript of Record.

United States Circuit Court of Appeals, Sixth Circuit.

No. 1494.

THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL, Appellants,
vs.
HERRING-HALL-MARVIN SAFE COMPANY, Appellee.

Stipulation and Agreement for Printing Record.

It is hereby stipulated and agreed between the appellants and appellee.

1. That all of the Exhibits transmitted to this court by the Clerk of the Circuit Court and now on file herein, shall be considered by this court and its clerk, for all purposes, as part of the transcript filed herein on September 21, 1905, as fully as if copied into said transcript.

2. That the clerk of this court in printing the record herein shall print all of said transcript as filed by said appellants except that,

A. Complainant's Exhibits Nos. 5, 6, 7, 8, 13, 14 and 15, and Defendants' Exhibits Nos. 204, 207 and 208, shall be printed by said clerk from the originals thereof, and not from pages 461, 462, 463, 464, 466, 467, 468, 469, 501, 504 and 505 of said transcript;

B. The first page of the cover of Complainant's Exhibit No. 18 and pages 21, 47 and 51 thereof shall be printed by said clerk from the original thereof, and not from pages 470, 471, 472 and 473 of said transcript;

C. The first page of the cover of Complainant's Exhibit No. 19 and pages 22, 48 and 52 thereof, shall be printed by said clerk from the original thereof, and not from pages 474, 475, 476 and 477 of said transcript;

D. Complainant's Exhibits Nos. 24, 25, 26, 27, 42 and 50 shall be printed by said clerk from the originals thereof, and not from pages 478, 479, 480, 481, 482 and 487 of said transcript;

In so printing the foregoing exhibits, the clerk shall pre-
2 serve the method of arrangement of the words and figures and style of type, as found in said originals, but not their color.

3. Said clerk will also print the following exhibits from the originals thereof, to-wit:

No. 4, (everything except the cut of safe), 10, 11, 12, the front cover of No. 16, the cover and first two pages and the last nine pages of No. 17, No. 20, (everything except cuts of safes), No. 21 (everything except cuts of safes), No. 22, 22½, No. 23, (everything except cuts of safes), the front page and back page of the cover of No. 28, No. 36, (everything except cut on first page), 38, 39, 40, 41, the front cover and title page of No. 45, 46, 49, (everything except cut of safe), No. 51, (everything except cut of safe), the first page of cover of No. 52, the first page of cover of No. 53, 54, 55 and 56;

Also Defendants' Exhibits and portions of exhibits as follows:

First page of cover and title page of Nos. 202, 209 and 340; letter heads, dates, addresses, date marks of printer and signatures of Nos. 223 to 229 inclusive, 286 to 291 inclusive, 293 to 309 inclusive (omitting the cut shown in No. 304), 347, 348, 405 and reproduce photographs 399 to 403 inclusive.

In so printing the foregoing exhibits, the clerk shall preserve the method of arrangement of the words and figures and style of type, as found in said originals, but not their color.

It is further stipulated and agreed that the cuts of safes found in Complainant's Exhibits Nos. 17, 20, 21 and 51, which, as above provided, are not printed in order to save the expense thereof, contain thereon the words "Hall's Patent," and "Hall's Safe and Lock Company," and that Complainant's Exhibits Nos. 4 and 49 contain thereon the words "The Hall's Safe Company, New York," and "The Hall's Safe Company, Cincinnati, Ohio," respectively.

4. Complainant's Exhibits Nos. 9, 29, 30, 31, 32, 33, 37, 43 and 44 and 45, and Defendants' Exhibits Nos. 210, 220, 221, 222, 230 to 260 inclusive, 292, 310 to 335 inclusive, 341 to 346 inclusive, 349, 390 and 404, may be omitted by said clerk in printing the record.

W. COCHRAN,
Of Counsel for Appellants.
LAWRENCE MAXWELL, JR.,
Counsel for Appellee.

Cincinnati, Ohio, October 16, 1905.

3 No. 1494. United States Circuit Court of Appeals. The Hall's Safe Co. *et al., vs.* Herring-Hall-Marvin Safe Co. Stipulation in regard to printing. Filed Oct. 25, 1905. Frank O. Loveland, Clerk.

UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

At a stated term of the Circuit Court of the United States of America, within and for the Sixth Judicial Circuit and Western Division of the Southern District of Ohio, begun and held in the Court Rooms at the City of Cincinnati, Ohio, in said District, on the first Tuesday of April, it being also the fourth day of that month, in the year of our Lord, one thousand nine hundred and five and in the one hundred and twenty-ninth year of the Independence of the United States of America.

Present: The Honorable Charles D. Clark, United States District Judge, for the Eastern and Middle Districts of Tennessee, sitting and holding United States Circuit Court, for the Southern District of Ohio, by designation.

Among the proceedings had were the following, to-wit:

No. 5893.

HERRING-HALL-MARVIN SAFE COMPANY, Complainant,
vs.
THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL, Defendants.

In Chancery.

Be it remembered, that heretofore, to-wit, on the first day of July, in the year of our Lord, one thousand nine hundred and four, came the complainant herein by its solicitors, and filed in the Clerk's Office of the Court aforesaid, its certain bill of complaint in this cause against the defendants herein, which said bill of complaint is clothed in the words and figures, following, to-wit:

Bill of Complaint.

Circuit Court of the United States, Southern District of Ohio, Western Division.

4 No. —.

HERRING-HALL-MARVIN SAFE COMPANY
vs.
THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL.

To the Judges of the Circuit Court of the United States for the Southern District of Ohio, Western Division:

Herring-Hall-Marvin Safe Company, a corporation duly organized and existing under the laws of the State of New Jersey, and a citizen of said state, brings this its bill against The Hall's Safe Company, a corporation organized and existing under the laws of the

State of Ohio, and a citizen of said state, having its principal office in Hamilton County, Ohio, in the Western Division of the Southern District, and Edward C. Hall, William H. Hall, Charles O. Hall, each of Hamilton County, Ohio, and each a citizen of said state; and thereupon your orator complains and says:

1. About the year 1847, one Joseph L. Hall, in connection with his father, Edward Hall, who remained in the business for only two or three years, established the business of manufacturing and selling fire proof and burglar proof safes in the City of Cincinnati, which was carried on with great success and increasing volume until 1867, under the names of E. Hall & Co., Hall, Dodd & Co., Hall, Carroll & Co., and Joseph L. Hall & Co., of all of which concerns said Joseph L. Hall was the principal and managing member. In 1867, he organized a corporation under the laws of the State of Ohio, under the name of Hall's Safe & Lock Company, for the purpose of continuing said business, and from 1867 to 1892, said business was carried on by and under the name of said Hall's Safe & Lock Company. Its factory and principal office were located at Cincinnati, Ohio, with branch offices and sub-agencies all over the United States. It also had export trade in Europe, South America, Australia, China and Japan. Its safes acquired great reputation, and were known and advertised in all of said countries, as well as throughout the United States, as "Hall's Safes" and "Hall's Standard Safes," and were always marked with the words "Hall's Standard Safes." By the year 1892 it had the largest business of any safe manufacturer in the world. Its sales approximated one-half of the entire output of fire proof and burglar proof safes and vaults in the United States.

2. In March, 1889, Joseph L. Hall, the founded of said business and the chief stockholder in said Hall's Safe & Lock Company, died. His stock in said company continued to be held by his estate for the equal benefit of his heirs, including his sons, the defendants Edward C. Hall, William H. Hall and Charles O. Hall, each of whom also owned stock in said company in his individual right. The defendant Edward C. Hall, who had long been connected with said business, succeeded his father as president of the company and continued in said office until the organization of Herring-Hall-Marvin Company in 1892. The defendant, William H. Hall was its vice-president, and the defendant Charles O. Hall its treasurer and assistant superintendent.

3. On or about May 4, 1892, Herring-Hall-Marvin Company was duly organized as a corporation under the laws of the State of New Jersey for the purpose of acquiring, among others, the business of Hall's Safe & Lock Company. It had a capital stock of $3,300,000.00, all of which was issued, and immediately upon its organization it duly purchased and acquired all and singular the real estate and leaseholds, interests, tools, machinery, fixtures, merchandise, trade marks, trade names and good will of said Hall's Safe & Lock Company, under an agreement in writing whereby said Hall's Safe & Lock Company covenanted and agreed with said Herring-Hall-Marvin Company that it would close up its affairs, cause itself

to be wound up and dissolved, and would not thereafter engage or continue in said business. Said agreement was assented to by the defendants, Edward C. Hall, William H. Hall and Charles O. Hall as stockholders in said Hall's Safe & Lock Company.

Said Herring-Hall-Marvin was authorized by its charter to engage in the manufacture and sale of fire proof and burglar proof vaults and safes and other structural iron work, and carried on said business from the time of its acquisition of the business and property of said Hall's Safe & Lock Company until the appointment of receivers thereof, as hereinafter alleged, in December, 1897; its principal factories and places of business being in the cities of Cincinnati and New York, in both of which places and throughout the United States it conducted a large business in the manufacture and sale of fire proof and burglar proof vaults and safes.

4. Upon the organization of said Herring-Hall-Marvin
6 Company the defendant Edward C. Hall was elected one of its directors and its president, the defendant William H. Hall one of its directors and its treasurer, and the defendant Edward C. Hall continued to be a director until on or about August 1, 1896; when he resigned. He was its president and the chief manager of its business from the time of its organization until on or about June 1, 1895, when he ceased to be president, and was thereafter, until on or about August 1, 1896, one of its vice-presidents and one of the two managers of its business in Cincinnati, during said entire time, being employed by it under a contract, by the terms of which he was found to devote, and under which he did devote all his time and attention to the service of said company.

The defendant, William H. Hall, continued to be a director in said Herring-Hall-Marvin Company from time of its organization until the spring of 1896, when he resigned his office. He was treasurer of said company from the time of its organization until on or about June 1, 1895, when he resigned, and during all the time from the organization of said company until August 1, 1896, he was employed by said company under a contract, pursuant to which it was his duty to give, and under which he did give, all his time and attention to the service of said company.

The defendant, Edward C. Hall was one of the incorporators of said Herring-Hall-Marvin Company, and the express purpose of its incorporation was to acquire and take over the business and property of said Hall's Safe & Lock Company and the good will thereof, and also the property and good will of other firms and concerns engaged in carrying on a like business, and to carry on business as their successor.

From the time of the organization of said Herring-Hall-Marvin Company until on or about July 1, 1896, the defendant Charles O. Hall was engaged in its employ under a salary, and devoted all his time and attention to its service.

5. Immediately upon the organization of said Herring-Hall-Marvin Company its said plant at Cincinnati, acquired from said Hall's Safe & Lock Company, was designated, by direction of its board of directors, of which the defendants Edward C. Hall and Wililam H.

Hall were members, and with their approval and consent, as "Hall Safe & Lock Works," and it advertised and held itself out and was known in the trade as the successor of said Hall's Safe & Lock Company and as operating Hall Safe & Lock Works. Its buildings were covered with signs, lettered "Hall Safe & Lock Works," and its safes were marked "Hall Safe & Lock Works," and designated as "Hall's Standard Safes," and its product was known in the trade generally as Hall's safes and "Hall's Standard Safes."

7

Said Herring-Hall-Marvin Company not only acquired the manufacturing plant of said Hall's Safe & Lock Company at Cincinnati, but its sales rooms and offices and selling agencies there and elsewhere, and continued to occupy the same and to retain in its employ most of the former officers, salesmen, agents, clerks and workmen of said Hall's Safe & Lock Company.

Said names and designations were taken and used for the purpose of securing to said Herring-Hall-Marvin Company more fully and completely the good will of said Hall's Safe & Lock Company, to which it was entitled and for which it had paid a large price, and for the purpose of perpetuating and making more certain its title as the successor of said Hall's Safe & Lock Company.

6. Large sums were spent by said Hall's Safe & Lock Company and said Herring-Hall-Marvin Company in advertising said names, and they became widely known in connection with and as trade names pertaining to said business.

Prior to the wrongs committed by the defendants and hereinafter recited, the name "Hall" was never used in the safe business in the United States or elsewhere otherwise than in connection with the said business founded by said Joseph L. Hall and carried on by him and his said successors, Herring-Hall-Marvin Company and Hall's Safe & Lock Company except that one E. K. Hall, brother of said Joseph L. Hall, carried on the safe business at Louisville, Kentucky, more than thirty years ago for less than a year and in a small way under the name of the E. K. Hall Safe & Lock Company.

During the whole period beginning with the organization of said business and extending to and including the present time, your orator and its said predecessors alone have had the right to use said trade names of Hall's Safe & Lock Company, Hall Safe & Lock Works, Hall's Safes and Hall's Standard Safes, and no other person, firm or corporation has had at any time heretofore, and none except your orator now has any right to use the said trade names or any trade name essentially or substantially the same.

7. The defendants, Edward C. Hall, William H. Hall and Charles O. Hall having ceased to be in the employ of said Herring-Hall-Marvin Company, on or about September 9, 1896, organized the defendant, Hall's Safe Company, and caused the same to be incorporated under the laws of the State of Ohio for the purpose of engaging in the business of manufacturing and selling safes and vaults under its corporate name. The capital stock of said company was originally $100,000.00, but your orator is informed and believes that it has since been increased to $250,000.00.

8

Said company was organized under said name, as your orator believes and changes, for the express purpose of deceiving intending purchasers and of appropriating the good will of the business of said Herring-Hall-Marvin Company and its predecessor, and of obtaining and diverting the trade of said Herring-Hall-Marvin Company. And in connection with said appropriation of said trade name and good will, said company employed the superintendent of said Herring-Hall-Marvin Company, who had been engaged with it and said Hall's Safe & Lock Company exclusively for twenty-seven years, and also other employés who had been identified for many years with the business of the Herring-Hall-Marvin Company and Hall's Safe & Lock Company.

8. Said Herring-Hall-Marvin Company did not authorize the defendants, or any of them, to use the trade name of "Hall's Safe & Lock Company" or Hall's Safe & Lock Works," or any other name, such as "The Hall's Safe Company," essentially or substantially the same, and never consented thereto; but on the contrary immediately protested against the use of said name by the defendants and on February 19, 1897, commenced a suit in equity against them in this court, No. 5012, to enjoin them from engaging in the business of manufacturing or selling fire proof or burglar proof safes and vaults under the name of the Hall's Safe Company, or any other trade name being essentially or substantially the same as Hall's Safe & Lock Company or Hall's Safe & Lock Works, calculated to deceive the public or intending purchasers in believing that they were dealing in said Herring-Hall-Marvin Company, or with the establishment founded by said Joseph L. Hall and carried on by said Hall's Safe & Lock Company, when in fact they were dealing with the defendants. On May 3, 1897, the defendants filed an answer to the said bill of the Herring-Hall-Marvin Company, and substantially the latter company filed a replication. While said suit was pending, to-wit, in December 1897, said Herring-Hall-Marvin Company became insolvent, and George R. Gray and Wright D. Pownall were appointed receivers thereof for its creditors and
9 stockholders by the circuit court of the United States for the third circuit and district of New Jersey, and also by the Supreme Court of the state of New York, and the city and county of New York, and also by this court, and as such receivers continued to carry on the business of said Herring-Hall-Marvin Company until December 20, 1900, on which day, in pursuance of orders and decrees entered by said courts, said Gray and Pownall, receivers, sold and by their deed, duly executed, transferred, assigned and conveyed to the plaintiff all of the real estate, personal property, manufacturing plant, tools machinery, merchandise, assets, franchises, property and good will of said Herring-Hall-Marvin Company, and the plaintiff has ever since been the owner thereof and has continued to carry on said business as the successor of said Herring-Hall-Marvin Company.

The plaintiff was formed by the stockholders and creditors of said Herring-Hall-Marvin Company for the purpose of reorganizing

the company and of acquiring said business and continuing it for their benefit.

9. On July 10, 1901, the plaintiff filed a petition in this court in said case No. 5012, for leave to file a supplemental bill as successor of said Herring-Hall-Marvin Company and as the purchasers under the orders of this court, from the receivers thereof, of the property and assets of said company, and as the owner of the rights sought to be enforced by said bill of the Herring-Hall-Marvin Company against the defendants. On February 22, 1902, this Court granted said petition, allowed said supplemental bill to be filed and ordered the defendants to demur, plead or answer thereto within thirty days. On March 22, 1902, the defendants filed a demurrer to said supplemental bill and the same was argued by counsel and submitted to the court at the same term and it was taken under advisement. On March 26, 1904, the court sustained the demurrer to said supplemental bill on the ground that your orator, Herring-Hall-Marvin Safe Co. ought to proceed by original bill, and not by supplemental bill, and ordered that said bill and supplemental bill be dismissed without prejudice, and with leave to your orator to proceed by an original bill against the defendants, which it now hereby does.

10. Said business founded by said Joseph L. Hall in 1847, has been carried on from that time until the present without interruption as a continuing business and going concern by said firms of which he was a member, and by said Hall's Safe and Lock Company, Herring-Hall-Marvin Company and the receivers thereof, and by
10 your orator, and your orator has acquired and owns the trade marks, trade names and good-will of all of said predecessors in said business and has used the same ever since its acquisition of the business.

11. Your roator is informed and believes and avers that said The Hall's Safe Company was formed and said corporate name adopted for the fraudulent purpose of obtaining the advantage of the reputation and established trade of said Herring-Hall-Marvin Company and its predecessors, and for the fraudulent purpose of deceiving the public and appropriating the good-will and reputation of said business theretofore carried on by said Herring-Hall-Marvin Company and its predecessors.

The defendants use the name "Hall's Safe Company" prominently in signs advertisements and advertise their product as "Hall's Safes" and that "Hall's Safes are safe safes and have been for 60 years" and that their product is "guaranteed by 60 years' record," and that their safes are "the old reliable sold for 60 years and known all over the world," and that they are "manufacturers of the old reliable Hall's safes," and in every way possible deceive the public into the belief that the safes manufactured and sold by them are safes of your orator's manufacture, and that they are carrying on the business established by said Joseph L. Hall and afterwards carried on by said Hall's Safe and Lock Company and Herring-Hall-Marvin Company, and now carried on by your orator as the successor of said concerns.

12. Your orator is informed and believes that the defendants

threaten to continue the use of said trade names and said unfair competition in defiance of the rights acquired by and secured to your orator as aforesaid, and to its great and irreparable loss and injury by which it has been and still is being deprived of great gains and profits which it might otherwise have obtained, but which have been received and enjoyed and are now being received and enjoyed by said defndants by and through their said unlawful acts and doings, and that the defendants have made and realized large profits and advantages from said unlawful acts and doings, but to what extent and how much exactly your orator does not know and prays a discovery thereof, and avers that the recovery to which your orator is entitled exceeds the sum of $25,000, and that the damages which your orator has suffered since its acquisition of said business by reason of said unlawful acts of the defendants exceeds the sum of $25,000.

Your orator therefore prays for a writ of subpœna against
11 the defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall requiring them to answer this bill but not under oath, answer under oath being waived, and that they may be enjoined *pendente lite* and by final decree from carrying on the business of manufacturing or selling fire proof or burglar proof safes or vaults under the name of "The Hall's Safe Company," or under any other trade name substantially or essentially the same and calculated to deceive the public or intending purchasers into the belief that they are dealing with your orator or with the establishment founded by said Joseph L. Hall and carried on by your orator, when they are dealing with the defendants, and from advertising their product as "Hall's safes" and from marking them with that name, and that your orator may recover the said profits made by said defendants by the use of said names, and also the damages which your orator has suffered by the said unlawful acts of the defendants, and for all other relief to which your orator may be entitled.

HERRING-HALL-MARVIN SAFE COMPANY,
By MAXWELL & RAMSEY, *Solicitors.*

LAWRENCE MAXWELL, JR.

And afterwards, to-wit: on the 1st day of July A. D., 1904, there was issued out of the Clerk's Office of the Court aforesaid, our certain writ of Subpœna in Chancery, directed to the Marshal of said District and against the defendants herein, which said Subpœna in Chancery is clothed in the words and figures, following, to-wit:

Subpœna in Chancery.

UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

The President of the United States of America to the Marshal of the Southern District of Ohio, Greeting:

You are hereby commanded to summon The Hall's Safe Company, a corporation, Edward C. Hall, William H. Hall and Charles O. Hall, citizens of and resident in the State of Ohio, if they be found in your District, to be and appear in the Circuit Court of the United States for the Western Division of the Southern District of Ohio, aforesaid, at Cincinnati, on the first Monday in September
12 next, to answer a certain Bill in Chancery, filed and exhibited in said court, against them, by Herring-Hall-Marvin Safe Company, a corporation and citizen of and resident in the State of New Jersey. Hereof you are not to fail under the penalty of the law thence ensuing.

And have you then and there this writ.

Witness, the Honorable Melville W. Fuller, Chief Justice of the United States, this 1st day of July, A. D., 1904, and in the 128th year of the Independence of the United States of America.

Attest:

[SEAL.] B. R. COWEN, *Clerk.*

Memorandum.

The said defendants are required to enter their appearance in this suit in the Clerk's Office of said Court on or before the first Monday of August, 1904, otherwise the said bill may be taken *pro confesso.*

B. R. COWEN, *Clerk.*

Subpœna Endorsed: Marshal's fees secured.

And afterwards, to-wit, on the 6th day of July, A. D., 1904, came the Marshal of said District, to whom the aforesaid writ of Subpœna in Chancery was in form directed, and returned the same into the Clerk's Office of the Court aforesaid, with his proceedings endorsed thereon, which said proceedings are clothed in the words and figures, following, to-wit:

Marshal's Return of Subpœna in Chancery.

CINCINNATI, OHIO, *July* 5, 1904.

Received this writ at Cincinnati, Ohio, on the 1st day of July, 1904, and on the 5th day of July 1904, I served the within corporation The Hall's Safe Company by leaving a true copy of this writ, with the endorsement thereon, for Edward C. Hall, President of said Company, at the usual place of business of said Company, placing said copy in the hands of Charles O. Hall, (within named.)

On July 2nd, 1904, I served same on the within named William H. Hall and Charles O. Hall by handing to each of them personally a true copy of this writ, with the endorsement thereon; and on the same day I served the within named Edward C. Hall by leaving a like copy of said writ, with the endorsement thereon, at his
13 usual place of residence—placing same in the hands of an adult member of the household.

The foregoing services made at Cincinnati and Glendale, Ohio.

V. J. FAGIN,
U. S. Marshal, S. D. O.,
By W. J. SANDERSON, *Deputy.*

Total Fees: $11.14.

And afterwards, to-wit; on the 8th day of August, A. D., 1904, the following appearance was filed in the Clerk's Office of the Court aforesaid, which said appearance is clothed in the words and figures, following, to-wit:

Appearance.

United States Circuit Court, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY ET AL.

To the Clerk of said court:

Please enter my appearance as solicitor and of counsel on behalf of defendants.

W. C. COCHRAN,
Solicitors for Defendants.

And afterwards, to-wit, on the 5th day of September, A. D. 1904, the following Answer was filed in the Clerk's office of the court aforesaid, which said Answer is clothed in the words and figures, following, to-wit:

Answer to Bill of Complaint.

Circuit Court of the United States, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.

vs.

THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL.

14 The Answer of The Hall's Safe Company, Edward C. Hall, William H. Hall, and Charles O. Hall to the Bill of Complaint.

The defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, now and at all times hereafter saving and reserving unto themselves all and all manner of benefit of exception which can or may be had or taken to the many errors, uncertainties and imperfections in the Bill of Complaint, for answer unto the said Bill, or so much thereof as defendants are advised it is material or necessary for them to make answer unto, say:

1. That The Hall's Safe Company is a corporation, duly organized under the laws of the State of Ohio, having its principal office in the city of Cincinnati, Hamilton County, Ohio; that it was incorporated on the 10th day of September, 1896, and authorized, by said name and style, to engaged in the business of manufacturing and dealing in fire and burglar safes and vaults, boxes and other fittings, locks, jail work and all kinds of structural iron work, and to make and enter into contracts and to sue and be sued; that its capital stock was One Hundred thousand dollars ($100,000) all of which was subscribed and paid for; that on the 13th day of June, 1900, its capital stock was increased from $100,000 to $150,000, all of which additional stock, except $3,400, was subscribed and paid for; that it has never had any other name or style and never changed its place of business; that at the time it was incorporated there was no existing person, firm or corporation, doing business in the State of Ohio of that name, or of any name so similar thereto as to be likely to mislead the public; that complainant Company was not organized for more than four years after this defendant and had full knowledge of defendant Company's incorporation, name and place of business; that the name which complainant assumed to designate the Company and to be used in its business and dealings was Herring-Hall-Marvin Safe Co.; that its principal office and place of business in Ohio was designated as Hamilton, Ohio; that it has never by amendment of its articles of incorporation, or otherwise, acquired the right to use any other name in its business and dealings, or to describe itself as of any other city than said City of

Hamilton; that while it was incorporated with a nominal capital of $3,300,000, all of which was issued as paid-up stock, defendant is informed and believes that One hundred thousand dollars, the cash consideration paid by it to the Receivers of Herring-Hall-Marvin Co. upon the purchase by it of said Company's real estate at Hamilton and all its leasehold interests, manufacturing plant, tools, machinery, merchandise, material all assets, franchises, property and good will of said company in the hands of said Receivers, was all the cash actually paid in by its stockholders; that it admits all of the statements contained in the first paragraph of complainant's Bill, except that the safes of said Hall's Safe & Lock Co. were always marked "Hall's Safes" or "Hall's Standard Safes," which it denies, and it avers, on the contrary, that none of said safes were marked "Hall's Safes," (and only certain makes and styles were marked "Hall's Standard Safes"), and it avers that all safes made by said Hall's Safe & Lock Co. were marked with its corporate name and title, and were known and spoken of as "Hall's Safes," not because they were so marked, but because the trade recognized that they were made by and under the supervision of the Halls father and sons up to the spring of 1889, when the said Joseph L. Hall died and by the sons alone, from that time to May, 1892.

2. Defendants admit that Joseph L. Hall died in March, 1889, and that the defendant, Edward C. Hall, owned 22 shares, the defendant, William H. Hall, owned 10 shares, and the defendant, Charles O. Hall, owned 10 shares of the capital stock of said Hall's Safe & Lock Co., that the defendant, Edward C. Hall, who had long been connected with said business, succeeded his father as President of said company, and continued in said office until May 4, 1892, when he resigned to become President of Herring-Hall-Marvin Co.; that the defendant, William H. Hall, was its Vice President, and the defendant, Charles O. Hall, its Assistant Superintendent, but not its Treasurer.

3. Defendants admit that, on or about May 4th, 1892, Herring-Hall-Marvin Co. was duly organized as a corporation under the laws of the State of New Jersey, and that one of its objects was to acquire and that it did acquire the business and property of Hall's Safe & Lock Company, but denies that it acquired the trade name of said Company, or any right whatever to use the same in its business, or any right to use any name in its business and dealings except its corporate name of Herring-Hall-Marvin Co. Defendants admit that said Hall's Safe & Lock Co. agreed in writing that it would not thereafter engage in, or carry on any business, whatsoever, and that it would, as soon as practicable, pay and discharge all its debts and liabilities and go into liquidation and procure itself to be wound up and dissolved in accordance with the laws of the State of Ohio. Defendants say that the defendants, Edward C. Hall William H. Hall and Charles O. Hall, were not parties to said agreement and had no agreement whatever with said Herring-Hall-Marvin Company, except as hereinafter stated; that the agreement they assented to, as stockholders, was the agreement of

Hall's Safe & Lock Co., alone, and that it was distinctly provided in such agreement that the name of the purchasing Co. should be Herring-Hall-Marvin Co., and no other, and that Hall's Safe & Lock Co., should be wound up and dissolved, thus leaving the field clear for them to engage in the safe business as individuals and use their own name in any manner not likely to be mistaken for Herring-Hall-Marvin Co., if they should be unable to secure employment on satisfactory terms with said Company, or if such employment should be terminated at any time by such company. Defendants deny that said Company carried on business in the City of Cincinnati up to the time of its insolvency and the appointment of Receivers, and aver, on the contrary, that it abandoned the office and factory acquired from Hall's Safe & Lock Co., in Cincinnati, in the summer and fall of 1897, and moved to a new factory constructed by it at Hamilton, Ohio.

4. Defendants admit that upon the organization of said Herring-Hall-Marvin Co., the defendant, Edward C. Hall, was elected one of its directors and its president, the defendant, William H. Hall, one of its directors and its treasurer; that Edward C. Hall was its president and chief manager until on or about June 1, 1895, when he ceased to be president and was thereafter, until on or about August 1, 1896, one of its vice presidents and one of the two managers of its business in Cincinnati during said entire time, and that he was bound to devote and did devote, during said period, all his time and attention to the service of said company; but defendants aver that said service was rendered in pursuance of a written agreement entered into, at or about the time of the purchase by said Herring-Hall-Marvin Co., from said Hall's Safe & Lock Co., of all its business and property, by the terms of which Edward C. Hall agreed to hold the office of president of the said Herring-Hall-Marvin Co., until May, 1897, and to devote all his time and give his best endeavors to promote the interests of said company in such office and otherwise for the sum of seven thousand dollars the first
17 year, and at such sum, not less than $7,000, as the Board of Directors might fix in each year thereafter, and agreed also that he would not so long as the Herring-Hall-Marvin Company desired to retain his services as above, engaged in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults and safes, or in any business or occupation such as the said corporation known as Hall's Safe & Lock Co. had theretofore been engaged in, or any other business which would or might compete or interfere in any manner with the business of the said Herring-Hall-Marvin Co. Defendants say that this was the only agreement between the parties and that, by necessary implication, it was also agreed that if said Herring-Hall-Marvin Co. did not desire to retain his services as above, or did not pay him a salary of not less than $7,000 per annum, the said Edward C. Hall should be free to engage in the safe business, or in any business formerly carried on by Hall's Safe & Lock Co., and to enter into competition with said Herring-Hall-Marvin Co.; and defendants say that said Edward C.

Hall never bartered or surrendered the right to use his own name in said business or to give it to any firm or corporation with which he might become associated in the exercise of such freedom to engage in business. Defendants say that in June, 1895, said E. C. Hall was deposed from the office of President of said Herring-Hall-Marvin Co., and his salary was reduced to $6,000 per annum, and that, in June, 1896, the Executive Committee of said Company proposed to make a still further reduction in his salary, and thereupon said E. C. Hall demanded that he should be paid the full amount of the salary stipulated for in said agreement, or that he should be released from all further obligation under said contract, and that his resignation should be accepted to take effect August 1, 1896; that, thereupon, his resignation was accepted to take effect August 1st, 1896, and he received from said Herring-Hall-Marvin Co. a full and unconditional release in writing from any and all obligations to said company under said contract of employment.

Defendants admit that said William H. Hall continued to be a director in said Herring-Hall-Marvin Co. from the time of its organization until August 1, 1896, and was treasurer of said company until on or about June 1, 1895, when he resigned, and that during all of said period he was bound to give and did give all his time and attention to the service of said company; but defendants aver that such service was rendered in pursuance of a written agreement entered into at or about the time of the purchase by said Her-
18 ring-Hall-Marvin Co. of the property and business of said Hall's Safe & Lock Co., by the terms of which said William H. Hall agreed to hold the office of treasurer, or any other office in the said Herring-Hall-Marvin Co. to which he might be elected or appointed until the 4th day of May, 1897, or longer if desired by the said company, and to devote all his time and give his best endeavors to promoting the interests and business of the said Herring-Hall-Marvin Co. in such office and otherwise at a salary of $5,000 for the first year, and at such a sum, not less than $5,000 as the Board of Directors might fix in each year thereafter, and agreed also that he would not, so long as said company might desire to retain his services as above, engage in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults or safes, or in any business or occupation such as the said Hall's Safe & Lock Co. had theretofore been engaged in, or in any other business which would compete or interfere with the business of said Herring-Hall-Marvin Co. Defendants say that this was the only agreement between the parties and that, by necessary implication, it was also agreed that if said Herring-Hall-Marvin Co. did not desire to retain his services as above, or did not pay him a sum not less than $5,000 per annum, the said William H. Hall should be free to engage in the safe business, or in any business formerly carried on by the Hall's Safe & Lock Co., and to enter into competition with said Herring-Hall-Marvin Co., and that said William H. Hall never bartered, nor surrendered the right to use his own name in said business, or to give it to any firm or corporation with which he might become associated

in the exercise of such freedom to engage in business. Defendants say that said William H. Hall, was deposed from the office of treasurer of said Herring-Hall-Marvin Co. on or about June 1, 1895, and that in June, 1896, the Executive Committee of said company proposed to make a reduction in his salary and thereupon said W. H. Hall demanded that he should be paid the full amount of his stipulated salary, or that he should be released from all further obligation under said contract of employment and that thereupon, to-wit, on July 2, 1896, his resignation as an employé of said Herring-Hall-Marvin Co. was accepted to take effect August 1, 1896, and he was fully released from any and all obligations to the company under his said contract of employment.

Defendant says that the defendant, Charles O. Hall,
19 never had any agreement with the Herring-Hall-Marvin Co., and never bartered or surrendered his right to engage in the safe business or any other business that had been carried on by the said Hall's Safe & Lock Co., or to use his own name in such business, or to give his name to any firm or corporation with which he might become associated in said business. Defendants admit that said Charles O. Hall was for a time engaged on a salary by the said Herring-Hall-Marvin Co., and during such period devoted all his time and attention to its service, but avers that long prior to September 10th, 1896, the said Charles O. Hall had been released from said employment.

5. Defendants deny that, immediately upon the organization of said Herring-Hall-Marvin Co., its said plant at Cincinnati was designated as "Hall's Safe & Lock Works" and that it advertised and held itself out and was known to the trade as the successor of said Hall's Safe & Lock Co., and as operating Hall's Safe & Lock Works, and that its buildings were covered with signs lettered "Hall's Safe & Lock Works," and that its safes were marked "Hall's Safe & Lock Works," and designated as "Hall's Standard Safes," and that its product was known in the trade generally as "Hall's Safes" and "Hall's Standard Safes." Defendants aver, on the contrary, that for more than three years the only name in which said company transacted its business was its authorized name "Herring-Hall-Marvin Co."; the only name which appeared on its envelopes, stationery, billheads, order blanks and on its offices, factories and stores, except on back or sides where economy dictated that no new painting should be done, was its corporate name "Herring-Hall-Marvin Co."; that in June, 1895, after the said Edward C. Hall was deposed as President and Chief Manager, the Board of Directors of said Company directed that the name "Herring-Hall-Marvin Co." should be painted out on said buildings and the name, "Hall's Safe & Lock Works" substituted therefor, and that about the same time, similar changes were directed to be made in its stationery, bill-heads, order blanks, etc., used in carrying on its business in Cincinnati, but deny that said changes were made with the approval and consent of said Edward C. Hall and William H. Hall, and aver, on the contrary, that both expressed their dissatisfaction repeatedly at attempting to carry on business in fictitious names, and that both finally refused to use or

subscribe such name, or names, to any orders, contracts, or instruments of any sort which imported a consideration, or obligation. Defendants say that such changes were adopted at that time, not for the purpose of securing to the said Herring-Hall-Marvin Co. the good-will of said Hall's Safe & Lock Co., which it had already secured and enjoyed without interruption for more than three years, but to overcome a supposed prejudice on the part of the public against the Herring-Hall-Marvin Co., which was popularly regarded as a "trust," a "monopoly," and an illegal combination for the purpose of raising prices, and, for the purpose of deceiving the public and inducing it to believe that the Hall's Safe & Lock Works was an independent concern and no longer connected with, but acting in direct competition with Herring-Hall-Marvin Co. and the other companies whose business and property it had absorbed. Defendants aver that said Herring-Hall-Marvin Co. was forced, by practical difficulties, to return to the use of its own corporate name early in 1897, and continued to use such name in its business until after it moved to Hamilton, Ohio, when, for the first time, it adopted the deceptive and misleading and wholly unauthorized title "Herring-Hall-Marvin Co., Successors to Hall's Safe & Lock Co., and operating Hall's Safe & Lock Works"; and this was more than a year after the defendant company had been incorporated and been doing business as The Hall's Safe Co., and after said Herring-Hall-Marvin Co. had abandoned and ceased to operate the old factory of Hall's Safe & Lock Co. in Cincinnati.

Defendants say that these various changes of name and style were wholly unauthorized by the Herring-Hall-Marvin Co.'s charter without any warrant in the original contract of purchase from the Hall's Safe & Lock Co., and in the practice of the said Herring-Hall-Marvin Co. for the first three years and eight months of its existence, and were adopted for the purpose of confusing and misleading the public and interfering with the just rights of these defendants to be known and to carry on business under the authorized corporate name of "The Hall's Safe Company," and of depriving defendant company of a portion of its good will and business.

6. Defendants deny that said Herring-Hall-Marvin Co. spent large sums of money, or any sums whatever, in advertising said names, or that said names had ever become widely known as names pertaining to the business of said Herring-Hall-Marvin Co. prior to the incorporation of defendant company, and aver, on the contrary, that the safes and other products of said Herring-Hall-Marvin Co. were simply marked with the corporate name of said company and the place of manufacture, and sold as the product of said company, until the adoption of the fictitious designation "Hall's Safe & Lock Works" in June 1895. Defendants deny, that complainant or its predecessors, the Herring-Hall-Marvin Co. ever had the right to use said alleged trade names of "Hall's Safe & Lock Co.," "Hall's Safe & Lock Works," "Hall's Safes," "Hall's Standard Safes," or any other name or names, except their corporate names and especially name or names so similar to defendant company's corporate name as would mislead the public and interfere

with defendants' right to use such corporate name in the conduct of their legitimate business.

7. Defendants admit that the defendants, Edward C. Hall, William H. Hall and Charles O. Hall, together with their brothers, A. Acton Hall and Walker P. Hall, being all the sons of Joseph L. Hall, and all alike being brought up in the safe business, organized and incorporated the defendant company under the laws of Ohio, for the purposes and with the capital hereinbefore stated, but deny, that it was organized for the express purpose of deceiving intending purchasers and of appropriating the good-will of the said Herring-Hall-Marvin Co. and its predecessors, and of obtaining and diverting the trade of the said Herring-Hall-Marvin Co., and aver, on the contrary, that the public never would have been deceived, or confused if said Herring-Hall-Marvin Co. and complainant had simply stuck to their corporate names and truthfully stated that their place of business was Hamilton, Ohio, instead of adopting fictitious names in their business.

Defendants deny, the materiality of the allegation as to defendant company's employing the superintendent of said Herring-Hall-Marvin Co., or any other employés of said company, and excepts to the same for impertinence.

8. Defendants admit that said Herring-Hall-Marvin Co. commenced a suit in equity against these defendants in this court, on February 19, 1897, and that on May 3, 1897, the rule day for answer, the defendants filed their answer in said case, but calls attention to the fact that said complainant did not file any replication in said case until October, 1899, two years and five months after the filing of the answer, and never took any testimony therein nor showed the slightest disposition to bring the same to trial, evidently being quite content with the fact that a suit was pending, of which fact they made use in divers ways referred to in the cross-bill filed herein.

Defendants deny, that plaintiff company was formed by
22 the stockholders and creditors of said Herring-Hall-Marvin Co., and deny, that it acquired said business and is continuing it for their benefit, and aver, on the contrary, that it is being carried on solely for the benefit of its own officers, employés and stockholders, and that, since its organization as aforesaid, no one has profited by its operations, except its officers and employees.

9. Defendants admit the allegations of paragraph 9 of the bill of complaint.

10. Defendants deny that complainant has acquired and owns the trade marks, trade names and good-will of all of its said predecessors in said business, and deny that it acquired by purchase from said receivers any trade marks or trade names whatsoever, and aver that plaintiff has no right whatever to use the names of "Hall's Safe & Lock Co.," "Hall's Safe & Lock Works," or any other names similar to the corporate name of defendant company, and deny that plaintiff has the right to hold itself out to the public as the "Successor of Hall's Safe & Lock Co.," or as "Operating Hall's Safe & Lock Works." Defendants say that the public has always under-

stood by the term "Hall's Safes, safes manufactured by the Halls—father and sons—and, since the father's death, by the sons alone; that there has never been one of Joseph L. Hall's sons in the employ of the recievers of said Herring-Hall-Marvin Company; or in the employ of complainant company from its organization to the present time, and that neither the receivers of said Herring-Hall-Marvin Co., nor complainant company has ever owned, leased, or operated "Hall's Safe & Lock Works," which name belongs only to the old Hall's Safe & Lock Co., factory, in Cincinntai, Ohio, and that it is a violation of good faith, and a fraud upon the public and a fraud upon defendants for complainant to attempt to avail itself of the reputation for skill and experience and fair dealing of the Halls without having one of them in its employ or paying him what his reputation and services are worth; to persist in falsely writing and advertising that it makes "Hall's Safes," and that it operates "Hall's Safe & Lock Works." Defendants aver that complainant company, by such writing and advertising, intends to deceive and does deceive the public into believing that its safes are made by the "Halls" and at the old "Hall's Safe & Lock Works" at Cincinnati, Ohio, which is contrary to fact.

11. The defendants deny that said The Hall's Safe Co. was formed and said corporate name adopted for the fraudulent purpose
23 of obtaining the advantage of the reputation and established trade of said Herring-Hall-Marvin Co., and its predecessors, and for the fraudulent purpose of deceiving the public and appropriating the good-will and reputation of said business theretofore carried on by said Herring-Hall-Marvin Co. and its predecessors. Defendants admit that The Hall's Safe Co. uses its corporate name in the conduct of its business and places the same upon its signs and upon safes, vaults and other products manufactured by it, but denies that it marks its safes "Hall's Safes," or "Hall's Standard Safes," or that it uses any signs or advertisements which could possibly deceive the public into the belief that the safes manufactured and sold by it are safes of complainant's manufacture, or that they are carrying on the business heretofore carried on by the Hall's Safe & Lock Co., Herring-Hall-Marvin Co., or complainant company, and defendants aver, on the contrary, that every effort is made to distinguish the business and product of The Hall's Safe Company from that carried on, or manufactured by, complainant company.

Defendants say that, occasionally, unauthorized advertisements have been inserted by dealers in The Hall's Safe Company's products, which might possibly be construed as claiming for its business a greater antiquity than any of the defendants can boast, but that, whenever the attention of defendant company has been called to such advertisements, dealers have been promptly instructed to withdraw the same, or to modify them so as to express the facts with regard to defendants' business experience and reputation, and that no such advertisements or statements have been made, to the knowledge of these defendants, within the last two years before the date of filing the bill herein. Defendants aver that, with a view to still further distinguishing its product from complainant's, and from that of

Hall's Safe & Lock Co. and of Herring-Hall-Marvin Co., The Hall's Safe Co. adopted a trade mark, early in 1902, and caused the same to be registered in the Patent Office of the United States, and places it upon all safes, vaults, vault fronts, safe deposit boxes, etc., manufactured by it, and calls the attention of customers and the public generally to this trade mark, which trade mark consists in the representation of an eagle with outspread wings and talons, bearing on its bosom a safe and in its talons a scroll inscribed with the name of the company.

12. Defendants deny that defendant company has used
24 any trade names belonging to plaintiff, or engaged in unfair competition in defiance or any rights acquired by, or secured to plaintiff, and deny that plaintiff has been deprived of any gains or profits by any unlawful or improper act of this defendant, and deny that it has made and realized any profits or advantages from any unlawful or improper acts and doings, and deny the right of plaintiff to an injunction preventing defendant company from carrying on the business of manufacturing or selling fire proof or burglar proof safes or vaults under its corporate name of "The Hall's Safe Company," and from marking them with that name.

13. And having answered said bill of complaint paragraph by paragraph, as fully as they are advised such bill ought to be answered, defendants, for a further defense herein, say that complainant has no standing in a Court of Equity, and no right to equitable relief for that—it has itself brought about all the trouble, confusion and uncertainty in the public mind, of which it complains, by attempting to use fictitious names, that have no resemblance to its own corporate name, but on the contrary, do resemble the name and style of this defendant, and by deceptive acts and conduct, systematically and persistently indulged in, such as follows:

Well knowing that said Hall's Safe & Lock Co. has not been in business since May, 1892, and that it was wound up and dissolved more than four years before complainant was incorporated, it has falsely represented to the public that said Hall's Safe & Lock Co. is still in existence, and manufacturing safes, by placing on its envelopes and stationery the words:

"Hall's Safe & Lock Co., Cincinnati, Ohio." "From Hall's Safe & Lock Works, 225 W. Pearl, Cincinnati, Ohio," by inserting in the business and general directories of the cities of New York, Chicago, St. Louis, San Francisco and Cincinnati, in bold type the name, "Hall's Safe & Lock Co." and giving in connection therewith the street and number of complainant's stores in such cities and complainant's telephone number, thereby intending to induce the public to believe that said Hall's Safe & Lock Co. is still in existence and doing business at those places; by causing advertisements to be inserted in various daily newspapers.

"The only office of Hall's Safe & Lock Co., of Cincinnati, Ohio, is located at 304 E. Lexington Street. Make no mistake," that being the address of plaintiff's store in Baltimore, Md.

"Safes—Original Hall's Safe & Lock Co. Beware of thin wall

imitations; they are not fire proof. P. O. Box 832." That
25 being the post-office box of complainant's agent in Spokane, Washington; and by writing to dealers in safes and to customers; "We know this to be the original Hall's Safe made by the Hall's Safe & Lock Co. of Cincinnati, one of the largest manufacturers of safes in the world."

Well knowing that The Hall's Safe Co. was incorporated by all of the sons of Joseph L. Hall and the only persons of that name now living who were known to the safe trade as manufacturers, they have falsely declared in letters written to dealers and purchasers of safes, "The assertion of Mr. Norris that The Hall's Safe Co. is the original Hall element, is a lie out of whole cloth," and have been guilty of divers other false representations and innuendoes more particularly described and set forth in the cross-bill filed herein, to which reference is hereby made.

All of which matters and things the said defendants are ready to aver, maintain and prove as this honorable court shall direct, and humbly pray to be dismissed, with their reasonable costs and charges in this behalf most wrongfully sustained.

THE HALL'S SAFE CO.,
EDWARD C. HALL,
WILLIAM H. HALL,
CHARLES O. HALL,
By WILLIAM C. COCHRAN,
Solicitor for Defendants.

UNITED STATES OF AMERICA,
Southern District of Ohio, County of Hamilton, ss:

Edward C. Hall, being duly sworn, says, that he is President of The Hall's Safe Company, one of the defendants, and is himself one of the defendants herein; that he has read the foregoing answer and known the contents thereof; that the allegations therein contained, as far as they relate to his own acts, are true, and as far as they relate to the acts of others he believes them to be true.

That in regards to all matters and things in the foregoing answer alleged, which are not within the personal knowledge of this deponent, the deponent has been fully informed, and he believes that the same are true.

EDWARD C. HALL.

26 Subscribed in my presence and sworn to before me this 3rd day of September, A. D. 1904.

[SEAL.] D. H. POTTENGER,
Notary Public, Hamilton County, Ohio.

Notary fee, 40 cents; paid by affiant.

And afterwards, to-wit; on the 5th day of September, A. D. 1904, the following cross bill of the The Hall's Safe Co., was filed in the Clerk's Office of the Court aforesaid, which said cross-bill is clothed in the words and figures, following, to-wit:

Cross-Bill of The Hall's Safe Co.

Circuit Court of the United States, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL.

Cross-Bill of the Defendant, The Hall's Safe Company.

To the Judge of the Circuit Court of the United States for the Southern District of Ohio, Western Division:

The defendant, The Hall's Safe Company, a corporation organized under the laws of the State of Ohio and a citizen of said State, having fully answered the petition of plaintiff, brings this its cross-bill against the plaintiff, Herring-Hall-Marvin Safe Company, a corporation organized under the laws of the State of New Jersey and a citizen of said State, and thereupon your orator complains and says:

1. That it was duly incorporated under the laws of the state of Ohio, on the 10th, day of September, 1896, and authorized by said name and style, to engage in the business of manufacturing and dealing in fire and burglar — safes and vaults, boxes and other fittings, locks, jail work and all kinds of structural iron work, and to make and enter into contracts and sue and be sued;

That its principal office and place of business is at Cincinnati, in Hamilton County, Ohio;

27 That its capital stock was one hundred thousand dollars ($100,000) all of which was subscribed and paid for;

That on the 13th day of June, 1900, its capital stock was increased from $100,000 to $150,000, all of which additional stock, except $3,400, was subscribed and paid for;

That it has never had any other name or style and never changed its place of business;

That, at the time it was incorporated, there was no existing person, firm or corporation doing business in the State of Ohio, of that name, or of any name so similar thereto, as to be likely to mislead the public;

That it adopted such name because its incorporators and principal stockholders and officers were all named Hall, and were all well-known experts in the safe business, Edward C. Hall having been engaged in such business ever since 1868, William H. Hall having been engaged in such business ever since 1874, Charles O. Hall, ever since 1876, and the others, for periods of from ten to fifteen years;

That it fitted up a factory in Cincinnati in the fall of 1896, and began to manufacture and sell safes in 1897, and by the expenditure

of all of its capital, and by the devotion, on the part of its officers and agents, of all their time and attention and experience, it succeeded in building up, in the course of four years, a large and profitable business, and a reputation for good workmanship and fair dealing which constituted a good will of great and rapidly increasing value;

2. That more than four years later to-wit, on or about the — day of December, 1900, the complainant corporation was incorporated under the laws of the State of New Jersey, and authorized to transact business, to contract, and to sue and be sued in the name and style of Herring-Hall-Marvin Safe Co., and to have its principal office and factory at the City of Hamilton, in Butler County, Ohio;

That said complainant corporation purchased from the receivers of Herring-Hall-Marvin Co. the real estate of said company situated in Hamilton, Ohio, and all the leasehold interests, manufacturing plant, tools, machinery, merchandise, material and all assets, franchises, property and good will of said company in the hands of said receivers for $100,000, and agreed as a further consideration for such purchase and conveyance to assume and pay all liens upon said real estate or other property and to pay all of the lawful expenses and
28 liabilities of said receivership, including certain receivers' certificates amounting to $100,000;

That, as this defendant is informed and believes, all of said liens and all of said expenses and liabilities including receivers' certificates, were paid out of the gross receipts of the business taken over and that said complainant company did not, in fact, advance more than the first $100,000 in cash, notwithstanding which fact it capitalized under the laws of New Jersey with a capital stock of $3,300,000, all of which was issued as paid up stock.

3. Your orator says, that, at the time of said purchase by complainant company and for many years prior thereto, neither the Herring-Hall-Marvin Company, nor its receivers, had in their employ any of the Halls who helped make the reputation of the Hall's Safes, or had or maintained an office or place of business in the City of Cincinnati, having abandoned its leasehold interests and the old factory of the Hall's Safe & Lock Co. in said city and moved to Hamilton, during the summer and fall of 1897, and that complainant company did not, after said purchase and prior to bringing suit herein, open an office or place of business in said City of Cincinnati, nor undertake to operate the old Hall's Safe & Lock Co.'s factory in said city, but carried on its business and manufacturing at the factory erected by the Herring-Hall-Marvin Company at Hamilton, Ohio.

4. Your orator says that there was never the slightest danger of the public's confusing the name and business of The Hall's Safe Company of Cincinnati with the name and business of Herring-Hall-Marvin Safe Co. of Hamilton, Ohio, and that, in fact, no one has ever mistaken your orator for the Herring-Hall-Marvin Co., or Herring-Hall-Marvin Safe Co., and your orator has never received a communication of any kind intended for complainant company; that your orator has never intended or desired to be mistaken for the Herring-Hall-Marvin Safe Co., or to have its product mistaken for that of the Herring-Hall-Marvin Safe Co., and there would never have been any

confusion or misunderstanding, if the complainant company had continued to use the name by which it was incorporated and by which alone it was authorized to contract and to sue and be sued, and to truthfully declare its place of business as Hamilton, Ohio.

Your orator further says that complainant company, not content with the business and good-will it had received from the receivers of the Herring-Hall-Marvin Co., and not content to advertise
29 itself as the successor to the Herring-Hall-Marvin Company, and not content to conduct its business in its own name and in such a way as to avoid confusion, and to rely on its own workmanship and fair dealing for a reputation, but intending and contriving to secure the benefit of the good-will which this defendant had established, and to injure defendant's business and to destroy as far as possible its reputation in the business world, began and has ever since kept up a grossly unfair competition by means of positive misstatements of fact, attempts to confuse the public, attempts to secure and appropriate to themselves business intended for your orator, attempts to intimidate dealers, and purchasers of, your orator's safes by threatening suits for damages, etc., and by libelous statements against the character of your orator and its principal officers, some of which are as follows, to-wit:

6. Having no right whatever to use the name "Hall's Safe & Lock Co." and knowing that the company of that name had not been in business for eight years, and having no place of business in Cincinnati, it falsely held out to the public by means of printed statements on its envelopes, letter heads, bill heads, etc., that it was the "Hall's Safe & Lock Co. of Cincinnati, Ohio," and that its communications and product were "From Hall's Safe & Lock Works, 225 W. Pearl St., Cincinnati, Ohio";

7. Having never had in its employ one of the Halls, whose skill and experience in the safe business, careful supervision, good workmanship and fair dealing had made a reputation for themselves and the product of the old Hall's Safe & Lock Co. as well as that of your orator, and intending and contriving to avail itself of their reputation, without employing them or paying them what their reputation and services were worth, and having never had possession of, or anything to do with, the factory of the Hall's Safe & Lock Co., it held itself out to the public by means of printed matter on its envelopes, letter-heads, bill-heads, and by means of advertisements inserted in the newspapers and by circular letters to its agents and to dealers generally as the sole manufacturer of "Hall's Safes," "Hall's Standard Safes," "Genuine Hall's Safes," etc., and as "Successor to Hall's Safe & Lock Co., operating Hall's Safe & Lock Works," etc.

8. That, well knowing that Hall's Safe & Lock Co. ceased doing business in May, 1892, and had been wound up and dissolved by proceedings in court more than four years before it (complainant company) came into existence, it nevertheless caused the
30 name "Hall's Safe & Lock Co." in large type, to be inserted in prominent places in Trow's Business Directory of Greater New York, for the years 1902, 1903 and 1904, in Trow's General Directory of Greater New York for the years 1902, 1903 and 1904;

in the New York Business Telephone Directory and the New York Telephone Company's General Directory for the years 1902, 1903 and 1904, giving its address as No. 400 Broadway, the New York store of complainant, and giving the telephone address of complainant; in the Chicago Directory for 1904, giving its address as 32 & 34 Dearborn Street, the Chicago store of complainant, and giving complainant's telephone address; in the St. Louis Directory for 1904, giving its address as 706 Washington Ave., the St. Louis store of complainant, and giving complainant's telephone address, and in the San Francisco Directory for 1904, giving its address as 605 Market Street, the San Francisco store of complainant, and giving complainant's telephone address; and in the General City Directory of Cincinnati for 1904, with the note, "(See Herring-Hall-Marvin Co.)," thereby falsely representing that Hall's Safe & Lock Co. was still in existence and doing business at the places named and could be reached by letter or telephone at those places, and intending to sell its own safes and product as the product of the old Hall's Safe & Lock Co. to any persons who might be deceived by such advertisements and induced to call at such places, or to write or telephone to such addresses, supposing that they were dealing with the old Hall's Safe & Lock Co.

9. That it has caused advertisements like the following to be inserted in the daily newspapers of Baltimore, Spokane, Portland, Seattle,

"The only office of Hall's Safe & Lock Co. of Cincinnati, Ohio, is located at 304 E. Lexington Street. Make no mistake," that being the address of complainant's store in Baltimore, thereby falsely representing that the old Hall's Safe & Lock Co. was still engaged in business in Cincinnati, Ohio, and that safes of its manufacture were to be had at complainant's said store;

"Safes—Original Hall's Safe & Lock Co. Beware of thin wall imitations; they are not fire proof. P. O. Box 832," that being the post-office box of complainant's agent in Spokane, Wash.

"Genuine Hall's Safes—only office in the Northwest is at 70 6th St.," that being the address of complainant's store in Portland, Oregon, thereby falsely representing that the safes made by it
31 and offered for sale at its said store, were manufactured by the old Hall's Safe & Lock Co., or by the well-known safe manufacturers named Hall.

"Thieves sometimes make a good haul, but the only genuine Hall Safe is made by the Herring-Hall-Marvin Safe Company," etc., etc.

10. That, well knowing that Hall's Safe & Lock Co. had not done any business since May, 1893, and had been wound up and dissolved by proceedings in court more than four years before it came into existence and that it had no right whatever, to announce itself as the successor of said company, it did style itself as "Successor to Hall's Safe & Lock Co." on its stationery, envelopes, letter-heads, bill-heads, and in the city directories of New York, Cincinnati, Chicago, St. Louis, San Francisco, and in advertisements published in various newspapers and in illustrated catalogues gotten out for the use of their agents and for general distribution.

11. That, well knowing that Hall's Safe & Lock Co. had not done any business since May, 1892, and had been wound up and dissolved by proceedings in court more than four years before it came into existence and that no authority had ever been given to anybody to use its name and that complainant's safes were made by itself, at its factory in Hamilton, Ohio, and that none of the Halls had anything to do with their construction, it has written to various agents, dealers and customers in the west at various times in the last two years:

"We beg to advise that the Hall's Safe & Lock Co. and their entire property, name, good-will, in fact absolutely the entire governing interests passed to the Herring-Hall-Marvin Co. by purchase," meaning thereby to convey the false impression that Hall's Safe & Lock Co. was still in existence and that complainant had a controlling interest in said company and the right to use its name.

"We know this to be original Hall's Safe made by the Hall's Safe & Lock Co. of Cincinnati, one of the largest manufacturers of safes in the world," a statement absolutely and inexcusably false.

12. Having no office or place of business in Cincinnati prior to the filing of the Bill herein, and having no right to use the name "Hall's Safe & Lock Co." in their business, they have nevertheless instructed the postmaster at Cincinnati to forward to their Hamilton address all letters addressed to The Hall's Safe & Lock Co., or to any similar name, and have thus intercepted, opened and read
32 hundreds of letters which were intended for, and written to defendant Company and were plainly addressed, Cincinnati, Ohio, and in several instances to Hall's Safe Co. or Hall Bros. Safe & Lock Co., and have thus delayed important remittances intended for your orator, and have gained, surreptitiously, more or less knowledge of your orator's business, and diverted from your orator customers and business which rightfully belonged to your orator.

13. Having no office or factory in the City of Cincinnati, prior to the filing of the Bill herein, and having no right to use the name "Hall's Safe & Lock Co." in their business, they falsely describe their safes in their catalogues as made at "Hall's Safe & Lock works, Cincinnati, Ohio," when in fact such safes are made at the Herring-Hall-Marvin factory in Hamilton, Ohio, and allow their agents to use illustrated catalogues, on the pages of which in large type are printed the words:

"Hall's Safe & Lock Works
Principal Office and Factory,
Cincinnati, Ohio."

and to display in their stores safes, of complainant's manufacture, on the inside doors of which are painted the words:

"Hall's Safe & Lock Works, Cin., O."

14. That well knowing that Hall's Safe & Lock Co., ceased to transact business in May 1892, and that it had been wound up and dissolved by proceedings in Court, it nevertheless falsely represented and continued to represent to the public that said Hall's Safe & Lock Co. is still in existence and doing business, by placing over the doors and on the windows of its (complainant's) stores in New York, Chicago, St. Louis and other cities (stores which were never occupied

by said Hall's Safe & Lock Co.) the name of said Hall's Safe & Lock Co. in conspicuous letters, as follows:

"Hall's Safe & Lock Co."

"Hall Safe & Lock Co. Halls

Herring-Hall-Marvin Safe Co. Safes

Successors. Standard."

"Hall's Safe & Lock Company Hall's Standard Safes

Hall's Safes. Bank Vaults."

33 15. That, with a view to intimidating dealers in, and purchasers of safes and preventing them from buying defendant company's safes, complainant has written to dealers and customers of this defendant libelous and threatening letters full of false statements and inuendoes, reflecting on the character and good faith of the officers of this company, of which the following are fair samples, viz:

"We claim that no other "Hall's Safe" is subject to the description which your letter sets forth, and if you are selling Hall's Safe Co. safe under the above description, you are imposing grossly upon the buying public and we shall certainly take steps to protect ourselves in that respect."

"The assertion of Mr. Norris that the Hall Safe Co. is the original Hall element is a lie out of whole cloth * * * all of those interested in the Hall Safe & Lock Co., which included all the Messrs. Hall, absolutely obligated themselves not to enter into the safe business in the future, using the name of the Hall Safe & Lock Co. or its parallel quantity. The Halls were forced out of the business for good and sufficient reasons in 1895. * * * There is now a suit in the United States Court to enjoin the Hall's Safe Co. from the using of the name and for an accounting for damages. This case has been pending for several years and all findings upon the present time are in favor of our Company. There is no question about the result."

"The Hall's Safe & Lock Co. in June 1892, transferred their entire interests, manufacturing, selling, branch interests, name, good will, in fact, absolutely everything pertaining to their interests to Herring-Hall-Marvin Co., under an iron clad bill of sale. Several hundred thousand dollars were paid for the name and good will of the Hall's Safe & Lock Co. There is now a suit pending in the United States Court at Cincinnati to enjoin the Hall's Safe Co. from the continued use of that name as also for an accounting for damages."

"In 1895 the Messrs. Hall withdrew from the Herring-Hall-Marvin Co. and organized The Hall's Safe Co. in direct violation of the

terms of the contract as herein alluded to hence the suit which is being pressed forward actively and if need be will be carried to the Supreme Court of the United States. * * *

The maker of the safes alluded to or the user thereof will be called upon to pay a very collateral damage," &c.

"We wish here to state to you that in buying this safe from the Hall's Safe Co., you do not get the genuine Hall Safe & Lock
34 Co. work, which is ours, we being the original and they, imitators."

"The article which you have procured is not a standard effect such as eminates from the Herring-Hall-Marvin Safe Company," meaning to convey the false impression that safes made by your orator are inferior to similar safes made by complainant.

"Upon final adjudication of the case the makers and users of all infringed rights will be held responsible therefor," meaning to convey the false impression that anyone who had the temerity to buy and use one of your orator's safes was liable in damages for such use.

"Place your order for a first class safe as the freight rate must be less than it would be on a single worthless safe. Please bear in mind that there is an imitation Hall's Safe Co." thereby charging, falsely and maliciously, that your orator's safes are "worthless" and that the Company itself is not a legal corporation, but an "imitation Company."

Complainant well knew, when it wrote, or caused to be written, such letters, that, the original Hall element is with defendant Company, and that no one of them has ever been in complainant's employ; that it was not true that the Hall's obligated themselves not to enter into the safe business in the future, using their own name; that it was not true that they were forced out of the business in 1895; that the suit then pending in the United States Circuit Court did not demand an accounting for damages, had not been pressed, and that no findings of any sort had ever been made in the case, and that no testimony whatever had been taken in said case on which findings of any sort could be based; that the Herring-Hall-Marvin Co., had not purchased the name of the Hall's Safe & Lock Co. nor the right to use it; that the Halls who had been under contracts of employment with the Herring-Hall Marvin Co. had received a full release from all obligations to the company under such contracts, before they engaged in business for defendant Company; that your orator was incorporated by all of the Halls, now living, who ever acquired a reputation in the safe business, and preceded the complainant in the manufacture of safes by four years; that the purchaser, and user of a safe (which is not a patented article) could not be held in damages "collateral" or otherwise, for such use; that Herring-Hall-Marvin Co., acquired no interest whatever in the old Hall's Safe & Lock Co., and that said Hall's Safe & Lock Co. had been wound up and dissolved, and that all statements to the contrary, made in said correspondence, were false and malicious.

35 16. Your orator is informed and believes that complainant threatens to continue and extend the use of said names and said unfair competition, in defiance of the rights acquired by

and secured to your orator as aforesaid, and to its great and irreparable loss and injury, by which it has been and still is being deprived of great gains and profits which it might otherwise have obtained, but which have been received and enjoyed and are now being received and enjoyed by said complainant by and through its deceitful malicious and unlawful acts and practices, and that the complainant has made and realized large profits and advantages from said deceitful, malicious and unlawful acts and practices, but to what extent and how much exactly your orator does not know, and prays a discovery thereof, and avers that the recovery to which your orator is entitled exceeds the sum of fifty thousand dollars, and that the damages which your orator has suffered by reason of said malicious and unlawful acts of complainant exceed the sum of fifty thousand dollars.

Your orator therefore prays for a writ of subpœna against the complainant, Herring-Hall-Marvin Safe Company, requiring it to answer this Cross-Bill, but not under oath, answer under oath being waived, and that it may be enjoined *pendente lite* and by final decree from carrying on the business of manufacturing and selling fire or burglar proof safes, vaults etc., under the name of "Hall's Safe & Lock Co.", "Hall's Safe & Lock Works" or under any other name than the name whereby it is authorized by its articles of incorporation to contract and sue and to be sued, to-wit, "Herring-Hall-Marvin Safe Co.," and from inserting the name "Hall's Safe & Lock Co." in any directories or publications, or in advertisements, and from using said name on its signs, stationery and envelopes, and from holding itself out to the trade as "Successor of Hall's Safe & Lock Co.," or as "Operating Hall's Safe & Lock Works," or as making and selling "Hall's Safes," "The only Genuine Hall's Safes" etc.; and from publishing, advertising, writing, or in any manner declaring to the public that your orator is improperly organized, or improperly engaged in the safe business, that its officers have no right to engage in said business and no right to use their names and reputation acquired in the safe business, in connection with your orator; and from doing any act tending to confuse the relations of your orator with complainant, and to lead the public to suppose that Hall's Safe & Lock Co. is still in existence and manufacturing safes, or that complainant is carrying on the business of Hall's Safe &
36 Lock —, or operating Hall's Safe & Lock Works; and from selling and advertising the product of its factory as "Hall's Safes," unless distinctly marked, "made by the Herring-Hall-Marvin Safe Co., Hamilton, Ohio," or by some similar mark denoting clearly that its product is not the product of your orator's factory in Cincinnati, Ohio; and from receiving, opening, or in any way handling letters addressed to "The Hall's Safe Co.," or any similar name, at Cincinnati, Ohio, and from having such letters forwarded from the Cincinnati postoffice (to which they were directed) to complainant at Hamilton, Ohio, where they were not directed; and from writing letters reflecting on the conduct of the Halls in connection with the old Herring-Hall-Marvin Co., or in going into business as officers and stockholders of your orator; and from any and all acts cal-

culated to deceive the public and to injure the business and good will of your orator; and that your orator may recover the said profits made by said complainant by the use of said names, and also the damages which your orator has suffered by reason of the malicious and unlawful acts of complainant, and for all other relief to which your orator may be entitled.

THE HALL'S SAFE COMPANY,
By WILLIAM C. COCHRAN,
Its Solicitor.

UNITED STATES OF AMERICA,
Southern District of Ohio, County of Hamilton, ss:

Edward C. Hall, being duly sworn, says: that he is the President of The Hall's Safe Company, the complainant in the foregoing cross-bill of complaint; that he has read the foregoing cross-bill of complaint and knows the contents thereof; that the allegations therein contained, as far as they relate to his own acts are true; and as far as they relate to the acts of others he believes them to be true.

That in regard to all matters and things in the foregoing cross-bill of complaint alleged, which are not within the personal knowledge of this deponent, the deponent has been fully informed and he believes that the same are true.

EDWARD C. HALL.

Subscribed in my presence and sworn to before me this 3rd day of September, A. D., 1904.

[SEAL.] D. H. POTTENGER,
Notary Public, Hamilton County, Ohio.

Notary fee 40 cents, paid by affiant.

37 And afterwards, to-wit: on the 5th day of September, A. D., 1904, there was issued out *out* of the Clerk's Office of the Court aforesaid, our certain writ of Subpœna in Chancery, directed to the Marshal of said District, and against the defendants herein, which said Subpœna in Chancery is clothed in the words and figures, following, to-wit:

Subpœna in Chancery.

UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

The President of the United States of America to the Marshal of the Southern District of Ohio, Greeting:

You are hereby commanded to summon, Herring-Hall-Marvin Safe Company, a corporation, citizen of and resident in the State of New Jersey, if it be found in your District, to be and appear in the Circuit Court of the United States for the Western Division of the Southern District of Ohio, aforesaid, at Cincinnati, on the first

Monday in November next, to answer a certain cross-bill in Chancery, filed and exhibited in said court against it by The Hall's Safe Company, a corporation, and citizen of and resident in the State of Ohio.

Hereof you are not to fail under penalty of the law thence ensuing.

And have you then and there this writ.

Witness, the Honorable Melville W. Fuller, Chief Justice of the United States, this fifth day of September, A. D., 1904, and in the 129th year of the Independence of the United States of America.

Attest:

[SEAL.] B. R. COWEN, *Clerk.*

Memorandum.

The said defendant is required to enter its appearance in this suit in the Clerk's Office of said Court on or before the first Monday of October, 1904, otherwise the said bill may be taken *pro confesso.*

B. R. COWEN, *Clerk.*

Subpœna endorsed: Fees deposited.

And afterwards, to-wit: on the 7th day of September, A. D., 1904, came the Marshal of said District, to whom the aforesaid writ
38 of Subpœna in Chancery was in form directed, and returned the same into the Clerk's Office of the Court aforesaid, with his proceedings endorsed thereon, which said proceedings are clothed in the words and figures following, to-wit:

Marshal's Return and Subpœna in Chancery.

Received this writ on the 6th day of September, A. D., 1904, and on the 6th day of September, A. D., 1904, I served the Herring-Hall-Marvin Safe Company by handing a true copy thereof with the endorsement thereon to Richard T. Pullen, Vice President of said company, no other chief officer being found in this district.

Service made at Hamilton, Ohio.

Fees: Total, $4.80.

V. J. FAGIN, *Marshal,*
By L. J. HUWE, *Deputy.*

And afterwards to-wit: on the 4th day of October, A. D., 1904, the following Replication to answer of The Hall's Safe Co., Edward C. Hall, William H. Hall and Charles O. Hall, was filed in the Clerk's Office of the Court aforesaid, which said Replication is clothed in the words and figures following, to-wit:

Replication to Answer of The Hall's Safe Co., Edward C. Hall, William H. Hall, and Charles O. Hall.

Circuit Court of the United States, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE COMPANY
vs.
THE HALL'S SAFE COMPANY ET AL.

Replication to the answer of The Hall's Safe Company, Edward C. Hall, William H. Hall, and Charles O. Hall.

The plaintiff, Herring-Hall-Marvin Safe Company, hereby joins issue with the defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall upon their answer to the bill of complaint of Herring-Hall-Marvin Safe Company.

LAWRENCE MAXWELL, JR.,
Attorney for Plaintiff.

39 And afterwards, to-wit; on the 7th day of November, A. D., 1904, the following Answer of Herring-Hall-Marvin Safe Company to the cross-bill of The Hall's Safe Company was filed in the Clerk's Office of the Court aforesaid, which said Answer is clothed in the words and figures following, to-wit:

Answer of Herring-Hall-Marvin Safe Company to the Cross-Bill of The Hall's Safe Company.

Circuit Court of the United States, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE COMPANY
vs.
THE HALL'S SAFE COMPANY ET AL.

Answer of Herring-Hall-Marvin Safe Company to the Cross-Bill of The Hall's Safe Company.

Herring-Hall-Marvin Safe Company for answer to the cross-bill of the Hall's Safe Company says:

1. About the year 1847, one Joseph L. Hall, in connection with his father Edward Hall, who remained in the business for only two or three years established the business of manufacturing and selling fire proof and burglar proof safes in the City of Cincinnati, which

was carried on with great success and increasing volume until 1867, under the names of E. Hall & Co., Hall, Dodd & Co., Hall, Carroll & Co., and Joseph L. Hall & Co., of all of which concerns said Joseph L. Hall was the principal and managing member. In 1867 he organized a corporation under the laws of the State of Ohio under the name of Hall's Safe & Lock Company, for the purpose of continuing said business, and from 1867 to 1892, said business was carried on by and under the name of said Hall's Safe & Lock Company. Its factory and principal office were located at Cincinnati, Ohio, with branch offices and sub-agencies all over the United States. It also had export trade in Europe, South America, Australia, China and Japan. Its safes acquired great reputation, and were known and advertised in all of said countries, as well as throughout the United States, as "Hall's Safes" and "Hall's Standard Safes," and were always marked with the words "Hall's Standard Safes." By the year 1892, it had the largest business of any safe manufacturer in the world. Its sales approximated one-half of the entire output of fire proof and burglar proof safes and vaults in the United States.

2. In March 1889, Joseph L. Hall, the founder of said business and the chief stockholder in said Hall's Safe & Lock Company, died. His stock in said company continued to be held by his estate for the equal benefits of his heirs, including his sons, Edward C. Hall, William H. Hall and Charles O. Hall, each of whom also owned stock in said company in his individual right. Said Edward C. Hall who had long been connected with said business, succeeded his father as president of the company and continued in said office until the organization of Herring-Hall-Marvin Company in 1892. Said William H. Hall was its Vice-President, and said Charles O. Hall its Treasurer and Assistant Superintendent.

3. On or about May 4, 1892, Herring-Hall-Marvin Company was duly organized as a corporation under the laws of the State of New Jersey for the purpose of acquiring, among others, the business of Hall's Safe & Lock Company. It had a capital stock of $3,300,000.00, all of which was issued, and immediately upon its organization it duly purchased and acquired all and singular the real estate and leaseholds, interests, tools, machinery, fixtures, merchandise, trade-marks, trade names and good-will of said Hall's Safe & Lock Company, under an agreement in writing whereby said Hall's Safe & Lock Company covenanted and agreed with said Herring-Hall-Marvin Company that it would close up its affairs, cause itself to be wound up and dissolved and would not thereafter engage or continue in said business. Said agreement was assented to by said Edward C. Hall, William H. Hall and Charles O. Hall as stockholders in said Hall's Safe & Lock Company.

Said Herring-Hall-Marvin Company was authorized by its charter to engage in the manufacture and sale of fire proof and burglar proof vaults and safes and other structural iron work, and carried on said business from the time of its acquisition of the business and property of said Hall's Safe & Lock Company, until the appointment of receivers thereof as hereinafter alleged in December 1897; its

principal factory and places of business being in the cities of Cincinnati and New York, in both of which places and throughout the United States it conducted a large business in the manufacture and sale of fire proof and burglar proof vaults and safes.

41 4. Upon the organization of said Herring-Hall-Marvin Company, said Edward C. Hall was elected one of its directors and its President, said William H. Hall one of its directors and its Treasurer, and said Edward C. Hall continued to be a director until on or about August 1, 1896, when he resigned. He was its President and the chief manager of its business from the time of its organization until on or about June 1, 1895, when he ceased to be president, and was thereafter, until on or about August 1, 1896, one of its vice-presidents and one of the two managers of its business in Cincinnati during said entire time, being employed by it under a contract by the terms of which he was bound to devote, and under which he did devote all his time and attention to the service of said company.

Said William H. Hall continued to be a director in said Herring-Hall-Marvin Company from the time of its organization until the Spring of 1896, when he resigned his office. He was treasurer of said Company from the time of its organization until on or about June 1, 1895, when he resigned, and during all the time from the organization of said Company, until August 1, 1896, he was employed by said Company under a contract, pursuant to which it was his duty to give, and under which he did give, all his time and attention to the service of said company.

Said Edward C. Hall was one of the incorporators of said Herring-Hall-Marvin Company, and the express purpose of its incorporation was to acquire and take over the business and property of said Hall's Safe & Lock Company, and the good will thereof, and also the property and good will of other firms and concerns engaged in carrying on a like business, and to carry on business as their successor.

From the time of the organization of said Herring-Hall-Marvin Company until on or about July 1, 1896, said Charles O. Hall was engaged in its employ under a salary, and devoted all his time and attention to its service.

5. Immediately upon the organization of said Herring-Hall-Marvin Company, its said plant at Cincinnati, acquired from said Hall's Safe & Lock Co., was designated by direction of its Board of Directors, of which said Edward C. Hall and William H. Hall, were members, and with their approval and consent, as "Hall's Safe & Lock Works," and it advertised and held itself out and was known in the trade as the successor of said Hall's Safe & Lock Company, and as operating Hall Safe & Lock Works. Its buildings were covered with signs, lettered "Hall Safe & Lock Works," and

42 its safes were marked "Hall Safe " Lock Works," and designated as "Hall's Standard Safes," and its product was known in the trade generally, as "Hall's Standard Safes."

Said Herring-Hall-Marvin Company not only acquired the manufacturing plant of said Hall's Safe & Lock Company at Cincinnati, but its salesrooms and offices and selling agencies there and else-

where, and continued to occupy the same and to retain in its employ most of the former officers, salesmen, agents, clerks and workmen of said Hall's Safe & Lock Company.

It is true that this defendant removed its principal factory to Hamilton, Ohio, on or about November 1st, 1897, but this defendant did not cease to do business in Cincinnati, but has continued to carry the same on in said city and has done a large part of the safe business in said city since November 1, 1897.

Said names and designations were taken and used for the purpose of securing to said Herring-Hall Marvin Company more fully and completely the good will of said Hall's Safe & Lock Company to which it was entitled and for which it had paid a large price, and for the purpose of perpetuating and making more certain its title as the successor of said Hall's Safe & Lock Company.

6. Large sums were spent by said Hall's Safe & Lock Company, and said Herring-Hall-Marvin Company in advertising said names, and they became widely known in connection with and as trade names pertaining to said business.

Prior to the organization of the Hall's Safe Company in 1896, the name "Hall" was never used in the safe business in the United States or elsewhere otherwise than in connection with the said business founded by said Joseph L. Hall and carried on by him and its successors, Herring-Hall-Marvin Company and Hall's Safe and Lock Company, except that one E. K. Hall, a brother of said Joseph L. Hall, carried on the safe business at Louisville, Kentucky, more than thirty years ago for less than a year and in a small way under the name of E. K. Hall Safe and Lock Company.

During the whole period beginning with the organization of said business and extending to and including the present time, this defendant and its said predecessors alone have the right to use said trade names of Hall's Safe and Lock Company, Hall Safe and Lock Works, Hall's Safes and Hall's Standard Safes, and no other person, firm or corporation, has had at any time heretofore, and none except this defendant now has any right to use the same trade names or any trade name essentially or substantially the same.

43 7. Said Edward C. Hall, William H. Hall and Charles O. Hall having ceased to be in the employ of said Herring-Hall-Marvin Company on or about September 9, 1896, organized the cross-complainant The Hall's Safe Company, and caused the same to be incorporated under the laws of the State of Ohio for the purpose of engaging in the business of manufacturing and selling safes and vaults under its corporate name.

Said Company was organized under said name as this defendant believes and charges for the express purpose of deceiving intending purchasers and of appropriating the good will of the business of said Herring-Hall-Marvin Company and its predecessors, and of obtaining and diverting the trade of said Herring-Hall-Marvin Company. And in connection with said appropriation of said trade name and good will, said company employed the superintendent of said Herring-Hall-Marvin Company, who had been engaged with it and said Hall's Safe and Lock Company exclusively for twenty seven years

and also other employees who had been identified for many years with the business of the Herring-Hall-Marvin Company, and Hall's Safe and Lock Company.

8. Said Herring-Hall-Marvin Company did not authorize said Halls or the cross-complainants or any of them, to use the trade name of "Hall's Safe and Lock Company," or "Hall's Safe and Lock Works," or any other name such as "The Hall's Safe Company," essentially or substantially the same, and never consented thereto; but on the contrary, immediately protested against the use of said name, and on February 19, 1897, commenced a suit in equity against them in this court, No. 5012 to enjoin them from engaging in the business of manufacturing or selling fire proof or burglar proof safes and vaults under the name of the Hall's Safe Company, or any other trade name being essentially and substantially the same as Hall's Safe and Lock Company or Hall's Safe and Lock Works, calculated to deceive the public or intending purchasers into believing that they were dealing with said Herring-Hall-Marvin Company, or with the establishment founded by said Joseph L. Hall, and carried on by said Hall's Safe and Lock Company. On May 3, 1897, the defendants filed an answer to the said bill of the Herring-Hall-Marvin Company, and subsequently the latter company filed a replication. While said suit was pending, to-wit: in December, 1897, the Herring-Hall-Marvin Company became insolvent, and George R. Gray and Wright D. Pownall, were appointed receivers thereof for its creditors and stockholders by the Circuit Court of the
44 United States for the Third Circuit and District of New Jersey, and also by the Supreme Court of the State of New York and the city and county of New York, and also by this court, and as such receivers continued to carry on the business of said Herring-Hall-Marvin Company until December 20, 1900, on which day, in pursuance of orders and decrees entered by said courts, said Gray and Pownall, receivers, sold and by their deed duly executed, transferred, assigned and conveyed to this defendant all of the real estate, personal property, manufacturing plant, tools, machinery, merchandise, assets, franchises, property and good will of said Herring-Hall-Marvin Company, and this defendant has ever since been the owner thereof, and has continued to carry on the said business as the successor of said Herring-Hall-Marvin Company.

This defendant was formed by the stockholders and creditors of said Herring-Hall-Marvin Company for the purpose of acquiring said business. It admits that it agreed with said Gray and Pownall, receivers, to pay all liens upon the real estate and other property sold to it by them, and to pay all of the lawful expenses and liabilities of said receivership including certain receiver's certificates. It denies that all of said liens, expenses and liabilities were paid out of the gross receipts of the business taken over by this defendant, or that this defendant did not advance more than the sum of $100,000 in cash.

9. Said business founded by said Joseph L. Hall in 1847 has been carried on from that time until the present without interruption as a continuing business and going concern by said firms of

which he was a member and by said Hall's Safe and Lock Co., Herring-Hall-Marvin Co., and the receivers thereof, and by this defendant, and this defendant has acquired and owns the trade marks, trade names and good will of all of its said predecessors in said business, and has used the same ever since its acquisition of the business.

10. This defendant is informed and believes that the cross-complainant, Hall's Safe Company, was formed and said corporate name adopted for the fraudulent purpose of obtaining the advantage of the reputation and established trade of said Herring-Hall-Marvin Company, and its predecessors, and for the fraudulent purpose of deceiving the public and appropriating the good will and reputation of said business theretofore carried on by said Herring-Hall-Marvin Company and its predecessors.

The cross-complainant and said Halls use the name "Hall's Safe Company," prominently in signs and advertisements and
45 advertise their product as "Hall's Safes" and that "Hall's Safes are safe safes and have been for 60 years," and that their product is "guaranteed by 60 years' record," and that their safes are "The old reliable sold for 60 years and known all over the world," and that they are "manufacturers of the old reliable Hall's safes," and in every way possible deceive the public into the belief that the safes manufactured and sold by them are safes of this defendant's manufacture, and that they are carrying on the business established by said Joseph L. Hall, and afterward carried on by said Hall's Safe and Lock Co., and Herring-Hall-Marvin Company, and now carried on by this defendant as the successor of said concerns.

11. This defendant denies that it has begun or kept up unfair competition with cross-complainant by any of the means or attempts alleged in the cross bill; or that it has made any false statements as alleged in the cross bill. It admits that it has held itself out and intends to continue to hold itself out by advertising and circulars, as it — a right to do, as the sole manufacturer of the genuine Hall's Safes, and as the successor to the Hall's Safe & Lock Company operating the Hall's Safe & Lock Works, and that it has caused the name "Hall's Safe & Lock Company" to be inserted in business directories with the address of this defendant. It admits the advertisements alleged in paragraph 9 of the cross bill; the addresses given in said advertisements are those of this defendant's offices.

12. It admits making the statements alleged in paragraph 11 of the cross-bill. It denies that said statements were false, or intended to convey a false impression.

13. The wrongful assumption of said name by said Hall- in the cross-complaint, caused great confusion in the mail, and made it necessary for this defendant to protect its mail by instruction to the postmaster at Cincinnati. This defendant denies that it has intercepted, opened or read letters intended for the cross-complainant and plainly addressed to it. Said instructions to the postmaster have prevented hundreds of letters intended for this defendant from being delivered to the cross-complainant, which otherwise would have been delivered to it on account of the similarity of name adopted by it.

14. It denies the allegations of paragraph 13 of the cross-bill.

15. It admits the advertisements alleged in paragraph 14 of the cross-bill.

16. It denies that any of the letters referred to in paragraph 15 of the cross-bill were written with a view to intimidating
46 dealers in or any purchasers of safes, or for the purpose of preventing them from buying safes of the cross-complainants. Not being furnished in the cross-bill with complete copies of the letters referred to or the dates, or the names of persons to whom they are supposed to have been addressed, this defendant cannot state whether this defendant wrote as therein alleged, or whether the alleged extracts fairly represented the purport of such letters. It is true however, that this defendant for its protection has been obliged frequently to notify the public, dealers and intending purchasers that it was the sole successor of the original Hall's Safe & Lock Co. and the manufacturer of Hall's Safe & Lock Works, and that the cross-complainant was not the original concern or its lawful successor, and that it was not the manufacturer of safes well known in the trade as "Hall's Safes."

17. It denies that it has been guilty of any deceitful, malicious or unlawful acts or practice, or that it has made or realized any profits or advantages thereby.

HERRING-HALL-MARVIN SAFE COMPANY.
LAWRENCE MAXWELL, JR., *Counsel.*

And afterwards, to-wit; on the 5th day of December, A. D., 1904, the following Replication to Answer to Cross-Bill was filed in the Clerk's office of the Court aforesaid, which said Replication is clothed in the words and figures, following, to-wit:

Replication to Answer to Cross-Bill.

Circuit Court of the United States, Southern District of Ohio, Western Division.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE CO. ET AL.

No. 5893.

THE HALL'S SAFE CO.
vs.
HERRING-HALL-MARVIN SAFE CO.

47 Replication to the Answer of Herring-Hall-Marvin Safe Co. to the Cross-Bill of Complainant.

The defendant, The Hall's Safe Company, hereby joins issue with the plaintiff upon its answer to the Cross-Bill of complaint of the Hall's Safe Company.

W. C. COCHRAN,
Attorney for The Hall's Safe Co.

And afterwards, to-wit; on the 4th day of February, A. D. 1905, the following deposition of Richard T. Pullen taken on behalf of complainant, was filed in the Clerk's Office of the Court aforesaid, which said deposition is clothed in the words and figures following, to-wit:

Deposition of Richard T. Pullen, Taken on Behalf of Complainant.

Notice to Take Depositions.

STATE OF OHIO, *Hamilton County, ss:*

HERRING-HALL-MARVIN SAFE CO., Plaintiff,
vs.
THE HALL'S SAFE CO. ET AL., Defendants.

Case No. 5893, Pending in United States Circuit Court, S. D. O., W. Div.

The above named defendants will take notice that on Tuesday, the 27th day of December, A. D. 1904, the plaintiff above named will take the deposition of Richard T. Pullen, to be used as evidence in the trial of the above cause, in behalf of the plaintiff, at the office of Maxwell & Ramsey, No. 104 West Fourth Street, Cincinnati, in the County of Hamilton, in the State of Ohio, between the hours of 8 o'clock A. M., and six o'clock P. M., of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

MAXWELL & RAMSEY,
Attorney- for Plaintiff.

48 Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived; also all exceptions as to time.

Done this 20th day of December, A. D. 1904.

W. C. COCHRAN,
Attorney for Defts.

In the United States Circuit Court, Southern District of Ohio, W. D.

STATE OF OHIO, *Hamilton County, ss:*

Case No. 5893.

HERRING-HALL-MARVIN SAFE CO., Plaintiff,
vs.
THE HALL'S SAFE CO. ET AL., Defendants.

Depositions.

In Behalf of Plaintiff.

The deposition of Richard T. Puller, taken before me J. L. Lackner, a notary public within and for the county of Hamilton, State of Ohio, duly commissioned and qualified, pursuant to the annexed notice and at the time and place therein specified, to be read in evidence on behalf of the plaintiff, Herring-Hall-Marvin Safe Company, in an action pending in the United States Circuit Court, for the Southern District of Ohio, Western Division, in said county and state, wherein said Herring-Hall-Marvin Safe Company is plaintiff, and The Hall's Safe Company, *et al.*, are defendants.

Appearances.

Mr. Lawrence Maxwell, Jr., attorney for Herring-Hall-Marvin Safe Company.

Mr. William C. Cochran, attorney for the Hall's Safe Company, Edward C. Hall, Wm. H. Hall and Chas. O. Hall.

It is agreed that this deposition may be taken in shorthand by Douglas A. Brown, an expert stenographer, after the witness shall have been first duly sworn by the notary before giving his said deposition, the further presence of the notary being waived, except as to certifying.

49 Thereupon the deponent, RICHARD T. PULLLEN, of lawful age, being first duly cautioned and sworn, was examined, and deposed and testified as follows, to-wit:

Direct examination by Mr. MAXWELL:

Mr. MAXWELL: I offer in evidence as a part of this deposition of Mr. Richard T. Pullen; the original Bill of Sale of Hall's Safe & Lock Company to Jennings S. Cox and Anson G. P. Segur, dated May 12, 1892, a copy of which is hereto attached, marked Exhibit 1, J. L. L., N. P.

Also, the Bill of Sale of the same date, from Jennings S. Cox and Anson G. P. Segur to Herring-Hall-Marvin Co., a copy of which is hereto attached, marked Plff's Ex. 2, J. L. L., N. P.

Also, a certified copy of the Deed of George R. Gray and Wright D. Pownell, Receivers, etc., to Herring-Hall-Marvin Safe Company, dated December 20, 1900, a copy of which is hereto attached, marked Plff's Ex. 3, J. L. L., N. P.

Q. 1. State your name, age, residence and occupation?

A. Richard T. Pullen; age, fifty-five, Glendale, Ohio; Acting President of Herring-Hall-Marvin Safe Co.

Q. 2. How long have you been engaged in the safe business?

A. Since February 11, 1874, with a very slight intermission of less than a year.

Q. 3. With what companies have you been connected?

A. With Hall's Safe & Lock Company, the late Hall's Safe & Lock Company—began with them; and their successors, Herring-Hall-Marvin Company; then with George R. Gray and Wright D. Pownell, Receivers of the Herring-Hall-Marvin Company; and then with Herring-Hall-Marvin Safe Company.

Q. 4. When did you go with the Hall's Safe and Lock Company?

A. November 11, 1874, I think it was, the date I began.

Q. 5. In what capacity?

A. As a clerk in the time keeping department—office department.

Q. 6. And what positions did you thereafter hold with that Company?

A. In due time I went into the corresponding department. Then I was made Secretary of the Company; finally as one of the Directors of the Company.

Q. 7. Who was the President of that Company?

A. Mr. Joseph L. Hall.

50 Q. 8. Where were its factories and places of business at the time you went with it?

A. The main office building was southwest corner of Pearl and Plum; factory located on the squares between Plum and Pearl and Second, and Central Avenue and Plum, main works; also in the square between Elm and Plum and Pearl and Second; all in the city of Cincinnati, County of Hamilton, State of Ohio.

Q. 9. Did it have branch offices and sub-agencies?

A. Yes, sir, throughout the various cities of the country.

Q. 10. What did it manufacture?

A. Manufactured safes, vaults and locks, and jail work, and such other conditions as pertained to the safe industry.

Q. 11. How extensive was its business?

A. Why, and in what way? Dollars and cents?

Q. 12. Yes, and to the extent of its manufacture as compared with other concerns in the same business?

A. Invariably ran a force of several hundred men, running any where from three hundred and fifty to seven hundred and as high as eight hundred, I think, at one time. Its pay-roll would run from three thousand to eight or nine thousand a week. That is, its factory pay-rolls. It had some ten or fifteen branch houses under the

management of various managers. It was regarded as the largest safe business in the country—in the world, in fact.

Q. 13. In what parts of the United States were its branch offices and agencies?

A. Oh, from the Atlantic to the Pacific; and in all the principal large cities.

Q. 14. How was its product known and called in the trade; were its safes known by any name?

A. It was known by the name of the product of the Hall's Safe and Lock Company—"Hall's Safes," manufactured by the Hall's Safe & Lock Company—"Hall's Standard Safes,"—"Hall's Never Robbed Dovetailed Burglar-proof safes." We had quite a number of leading features that we used to impress the public with.

Q. 15. Was there any term by which its safes were spoken of in the trade when referring to its product?

A. It was also referred to as fire and burglar proof bank vaults, fire and burglar proof safety deposit work.

Q. 16. How if at all was its product distinguished from the safes of other manufacturers?

A. As by the product of Hall's Safe & Lock Company;
51 designated and sold as "Hall's Safes." When they went out to sell safes by agents or otherwise, they were represented as the product of—the "Hall" product, made by "Hall's Safe & Lock Co."

Q. 17. Were the safes marked in any particular way; if so, how?

A. They invariably had the Company's name, and the office on them sometimes—"Hall's Safe and Lock Company," and generally the branch house or the location of the factory. If it went through the New York house, "New York" was put on or "St. Louis."

Q. 18. How if at all were the safes referred to by persons speaking of the safes manufactured and sold by that Company in the trade, in ordering them, selling them, referred to them?

A. Why, "Hall's Safes" would generally cover about everything—"Hall's Safes"—product of Hall's Safe & Lock Co.

Q. 19. State whether or not they were generally known and called in the trade as "Hall's Safes?"

A. Why, I would say yes,—"Hall's Safes," "Hall's Standard Safes."

Q. 20. You were a son-in-law of Joseph L. Hall?

A. Yes, sir.

Q. 21. One of the trustees under his will?

A. Yes, sir.

Q. 22. What became of his stock in the Hall's Safe & Lock Company when he died?

A. Oh, he passed it to his trustees who consisted of Mrs. Sarah J. Hall, his wife and Edward C. Hall, his son, and myself.

Q. 23. How long was his stock in the Company held by his executors and trustees?

A. Up to the time that the business sold out to Herring-Hall-Marvin Company, or whoever it was that took hold, when the stock that we got, trustees got, from the sale of the Herring-Hall-Marvin

Company, that was distributed immediately to the children, and the cash passed into the hands of the trustees which was later on distributed to the heirs.

Q. 24. Who were the principal stockholders in the Hall's Safe & Lock Company during the lifetime of Joseph L. Hall?

A. He was the main stockholder; stock outside of his hands only amounted, you might say, to a nominal sum.

Q. 25. Who held this nominal stock not owned by Joseph L. Hall?

52 A. John Mitchell had a line of stock; Samuel Tatem had some stock, and I think a man named H. Pund had some stock. There were other small shares that some of the children owned. My wife had a few shares.

Q. 26. Did Joseph L. Hall's children own shares of the Hall's Safe & Lock Company?

A. Edward C. Hall; My wife, Mrs. Pullen; W. H. Hall, Chas O. Hall. Now what other children had I don't know. I think they had but few shares, though.

Q. 27. How did they acquire those shares?

A. I think that with the exception of Edward, I think most of the stock was given them by their father; I think some of his stock was, and he bought some himself; just how many shares I could not say.

Q. 28. Who were the children of Joseph L. Hall?

A. There was my wife, who was the oldest; Anna M. Pullen, C. O. Hall, Edward C. Hall, William H. Hall, Mrs. Kate Hart, Mrs. Frank Clarke, Mrs. Pearl Junkerman, Mrs. Chloe Kemper, Mrs. Jesse Trevor, Mr. Acton A. Hall, Mr. Walker P. Hall; and there was one son, Mr. Joseph L. Hall, Jr., who died many years ago, back in the seventies, I think it was. There were eleven children living, and Mr. Joseph L. Hall, Jr., who died in the 70's.

Q. 29. Was the stock in the Hall's Safe & Lock Company held by Joseph L. Hall's executors trustees for the children equally?

A. It was held under his will subject to certain conditions vesting it in his wife during her life, and thereafter the estate to be distributed share and share alike to the children.

Counsel for defendants objects to the witness stating contents of the will.

Q. 30. Did you have anything to do with the formation of Herring-Hall-Marvin Company?

A. Why, I took part as one of the trustees of Joseph L. Hall's estate in assenting, carrying through the conditions as also a stockholder and director in Hall's Safe & Lock Company.

Q. 31. Did you have anything to do with negotiating an arrangement by which the property of Hall's Safe & Lock Co. was transferred to Herring-Hall-Marvin Company?

A. Yes, sir, in connection with Mr. E. C. Hall necessarily would have to do that, as being one of the active parties to the transaction.

Q. 32. At that time who constituted the Board of Directors of Hall's Safe & Lock Company?

53 A. Edward C. Hall, W. H. Hall, Chas. O. Hall, John B. Marling and myself; I think there were five directors.

Q. 33. What was the consideration received by Hall's Safe & Lock Company for that transfer?

A. Thirteen hundred thousand dollars; six hundred thousand dollars in cash and seven hundred thousand dollars in the common stock.

Q. 34. What was done with that consideration?

A. The common stock as soon as we were notified it was ready for distribution, was distributed to various children of Joseph L. Hall under his will.

Q. 35. Was Joseph L. Hall's widow living at that time?

A. Yes, sir. The cash went into the treasury of the Hall's Safe & Lock Company. The debts were paid, and a distribution of the cash residue was then made to the stockholders pro rata according to their holdings, Joseph L. Hall's estate, or the trustees thereof, becoming possessed of their share of the money consideration.

Q. 36. Did you hold any office in the Herring-Hall-Marvin Company; if so, what?

A. As Director, and Secretary of the Company, and on the Executive Committee.

Q. 37. What if any other concerns were acquired by Herring-Hall-Marvin Company?

A. Herring & Co., of New York City; Marvin Safe Company, of New York City; Farrel & Co. of Philadelphia, and Myers & Smith of Philadelphia.

Q. 38. Had these concerns been engaged in the safe business in the West?

A. Why, not through branch houses, but through solicitors and traveling men, they would get out that way.

Q. 39. How extensive had their business been in the West?

A. Why, I think the business of those concerns in the West was a minor quantity.

Q. 40. Had Hall's Safe & Lock Company been engaged in business in the East?

A. Yes, sir, through branch houses.

Q. 41. After Herring-Hall-Marvin Company acquired these various businesses, where was its principal office?

A. Cincinnati, down at the works on Pearl Street.

Q. 42. You refer to the works of the Hall's Safe & Lock Co.?

A. Of which they succeeded.

54 Q. 43. What if any names did Herring-Hall-Marvin Co. use in carrying on the business after it was organized?

A. They began as Herring-Hall-Marvin Company; later on it was found it would be to the interests and benefit of the business to designate the different quantities. Thereupon the name applying to the West of "Hall's Safe & Lock Works," "Herring's Safe Works" in New York, "Marvin's Safe Company's Works" in New York; the name of Myers & Smith was dropped out entirely, and the name of Farrel & Co. was continued on the signs in Philadelphia.

Q. 44. What if anything was done towards using the name "Hall's Safe & Lock Works"?

A. Why, aside from designating or calling themselves the successors of Hall's Safe & Lock Company in operating the works nothing definite was done until along in the fall of 1893, or 1894—Spring of 1894, at which time we began using the name upon the buildings and on the literature of the Company as "Hall's Safe & Lock Works."

Q. 45. You have referred to a designation as successor of "Hall's Safe & Lock Company"; please tell us when that designation was taken, and how it was used and employed?

A. Well, Herring-Hall-Marvin Company always announced itself as the successors to the firms to which I have referred, "Hall's Safe & Lock Company," "Herring & Company," "Marvin Safe Company," "Farrel & Company," and "Myers & Smith." It was found necessary in the use of the name "Hall's Safe & Lock Co." to make the announcement that the Company was the successors of that Company, and in order to keep the name of the works and the product before the public, it was then worded "Operating Hall's Safe & Lock Works." There was never any powers placed in Hall's Safe & Lock Works; it was simply to keep the name before the public.

Q. 46. In what way was the term "Successors to Hall's Safe & Lock Company," which you say the Herring-Hall-Marvin Co. always used, employed; was it printed or written; if so, where and how?

A. Printed on their letter-heads, "Herring-Hall-Marvin Co., Successors to Hall's Safe & Lock Co.," and "Operating Hall's Safe & Lock Works."

Q. 47. When was that designation printed on its letter-heads?

A. Why, the first record I have locating the time was along in the fall of 1893 and spring of 1894.

55 Q. 48. I am referring now to the printing of the term "Herring-Hall-Marvin Co. Successors to Hall's Safe & Lock Co.," on its letter-head?

A. As I say, along in the fall of *of* 1893 and spring of 1894.

Q. 49. Prior to that time what had been printed on the letter-heads of Herring-Hall-Marvin Company?

A. Herring-Hall-Marvin Company, manufacturers of safes and vaults and the products that they produced.

Q. 50. How did you come in 1893 and 1894 to use this matter on your letter-heads, "Successors of the Hall's Safe & Lock Co."?

A. How did we come to do it?

Q. 51. Yes; who directed it to be done; what was said about doing it?

A. I do not call just what was said to mind; it was canvassed, though, between us.

Q. 52. Between whom?

A. The Executive Committee, and possibly some of the Directors; there was no record of that on the minutes, however.

Q. 53. You have referred to some record which you say enabled you to fix a date?

A. Why, yes.

Q. 54. What was that?

A. The question of painting the factories and lettering them and so forth was canvassed. The Executive Committee, which consisted of Edward C. Hall, Frank O. Herring and myself, undertook to have the factories painted; the Cincinnati factory was painted and lettered, "Hall's Safe & Lock Works." The minutes of Herring-Hall-Marvin Company, I think on their meeting June 6, 1894, will show that I made a report to the Board of Directors, that carrying out the instructions of the Executive Committee, the factory in Cincinnati was painted black with white letters, "Hall's Safe & Lock Works," a large piece of work. The building covered almost two squares; it took a very long time to do it; it began very early in the season, and was finished before I made my report.

Q. 55. At how many places was the designation "Hall's Safe & Lock Works" painted on your Cincinnati factory?

A. There was a whole lot of buildings, covered two squares pretty near; some of them four or five stories; some three stories;
56 some two stories; some one story. Every building had the name on.

Q. 56. Did you have sales-rooms in Cincinnati?

A. Yes, sir.

Q. 57. What sign appeared on that sales-room?

A. Hall's Safe & Lock Works.

Q. 58. Did you have a sales-room in Chicago?

A. No, sir, only through an agency.

Q. 59. Did you have a sales-room through an agency in Chicago?

A. Yes, sir.

Q. 60. And what sign was painted on that sales-room?

A. Well, they had old signs that they took over from Hall's Safe & Lock Company.

Q. 31. What were those signs?

A. There was a large sign, I think, over the door, "Hall's Safes"; then the name of "Hall's Safe & Lock Company" on the windows.

Q. 62. Did they continue after the business was acquired and carried on by Herring-Hall-Marvin Company?

A. Why, it is up there now, I guess, all those signs are.

Q. 63. Please state whether the same sign, "Hall's Safe & Lock Company," and "Hall's Safes" that was displayed over your agency in Chicago before 1892, was continued after Herring-Hall-Marvin Company acquired and carried on the business?

A. Yes, sir.

Q. 64. Was there any change in your signs over your sales-rooms in Cincinnati?

A. Now we have no sales-room in Cincinnati.

Q. 65. Was there any change in your signs of your sales-room in Cincinnati after Herring-Hall-Marvin Company acquired and carried on the business?

A. No, those signs were not obliterated; they were there when we gave up the property.

Q. 66. How was it about your agencies generally through the West where Hall's Safe & Lock Co. had carried on business prior to 1892,

were their signs continued after Herring-Hall-Marvin Co. acquired and carried on the business?

A. Yes, and the name "Herring-Hall-Marvin Co." put on in addition, in some shape or other.

Q. 67. My question is, whether the name of "Hall's Safe & Lock Co." and "Hall's Safes," was continued on your various
57 agencies throughout the United States after Herring-Hall-Marvin Company acquired the business?

A. Oh, yes.

Q. 68. Did the name "Hall's Safes" and "Hall's Standard Safes" continue to be used after Herring-Hall-Marvin Co. acquired the business?

A. Yes, sir.

Q. 69. By what name were the safes manufactured by the Herring-Hall-Marvin Company known to the trade?

A. Some of them were lettered "Hall's Safe & Lock Works," and some of them were lettered "Hall's Standard Safes," and some of them were lettered "Herring-Hall-Marvin Co."

Q. 70. To what extent were they lettered "Hall's Safe & Lock Works," and "Hall's Standard Safes"?

A. Well, I could not answer that in number, because we turned out from three to six thousand safes a year; just how many were lettered each respective way I could not say; but all of them were lettered with those various names.

Q. 71. When dealers or the trade would order safes, or speak of safes made and sold by Herring-Hall-Marvin Co., what did they call them?

A. When they would order safes? Why, they were ordered of a special number or size that they wanted, and their name was generally put on as dealer, with the Company's name, or the name of the safe, "Hall's Safe & Lock Works" prominently, and the dealer's shop down below.

Q. 72. Did you advertise in any way under stationery or letterheads, or otherwise, the signs that were painted on the Cincinnati establishment, "Hall's Safe & Lock Works"?

A. As I say, along in 1893 or 1894 we got out stationery pertaining to the West, "Herring-Hall-Marvin Co.," "Successors to the Hall's Safe & Lock Company," and "Operating Hall's Safe & Lock Works."

Q. 73. Was there any picture of those works on that stationery?

A. At one time there was, the old factory in Cincinnati, *that* when we moved to Hamilton, why, the picture was dropped.

Q. 74. You moved to Hamilton in 1897?

A. We began the erection of works there in the fall of 1896; we moved our office there on Nov. 1st, 1897.

Q. 75. Between 1892, the time when Herring-Hall-Marvin
58 Co. was established, and the time when you moved to Hamilton, was there any picture of your Cincinnati works on your stationery?

A. Yes, there was a cut of the factory on it, and old style cut.

Q. 76. Did that picture show the signs that were on the building, do you know?

A. I do not suppose it would be large enough to show the signs the way they were put on the building; of course, the picture was somewhat distorted; it was meant to magnify the surroundings as much as possible.

Q. 77. Was the name of "Hall" ever used in connection with the safe business in the United States during your time except by the Hall's Safe & Lock Company with which you were connected until the defendants organized Hall's Safe Co.?

A. My recollection was that the brother of Mr. Joseph L. Hall, Dr. E. K. Hall, organized a company in Louisville that he called the E. K. Hall Safe & Lock Co., which didn't last very long. I don't know the size or the capital, or anything else; but my mind goes back to a condition of that kind.

Q. 78. When was that?

A. I should think that that was the latter part of the seventies; I could not fix the date in my mind. It was one of those superficial quantities that was not regarded of any weight at the time.

Q. 79. That continued for only a short time?

A. I think for only a short period, yes, sir.

Q. 80. Was the name "Hall" ever otherwise used in connection with the safe business?

A. Not according to my memory outside of the Hall's Safe & Lock Company, its founder and his associates back in the forties and fifties.

Q. 81. You have referred to your memory. Can your memory be in any doubt about the matter?

A. Why, I think not.

Q. 82. You were engaged in the safe business from——

A. Seventy-four.

Q. 83. Till the present time?

A. Yes, sir; and with the exception that I allude to the name of "Hall," outside of the conditions of Hall's Safe Company operated by the Messrs. Hall, why, it has not been used.

Q. 84. Before Herring-Hall-Marvin Co. was formed, in
59 what name or names did Hall's Safe & Lock Company receive mail?

A. Why, Hall's Safe & Lock Company. There were a good many letters came addressed "Joseph L. Hall & Co." It was the name that was so well know- that sometimes the predecessors' names would appear, "Hall, Dodd & Co.," like that, through men who had been in touch with the first interest, and would address the old establishment. That mail would naturally come to the Hall's Safe & Lock Company.

Q. 85. After Herring-Hall-Marvin Co. was formed, how was mail addressed which that Company received at Cincinnati?

A. Addressed Hall's Safe & Lock Company, Herring-Hall-Marvin Co., and later on to Hall's Safe & Lock Works.

Q. 86. To what extent was your mail addressed to you as "Hall's Safe & Lock Works," and "Hall's Safe & Lock Co."? Did you receive many letters, or few letters?

A. Thousands of letters; I received over one thousand letters last

year addressed to "Hall's Safe & Lock Co.," and "Hall's Safe & Lock Works."

Q. 87. I am referring now to the time prior to the formation of Hall's Safe Company by Edward C. Hall and his brothers; to what extent did Herring-Hall-Marvin Company receive mail addressed "Hall's Safe & Lock Co.," or "Hall's Safe & Lock Works"?

A. Oh, in large numbers. I have got the envelopes cover in the mail—hundreds—thousands of them.

Q. 88. How did people come to address mail intended for Herring-Hall-Marvin Co. to "Hall's Safe & Lock Works" and "Hall's Safe & Lock Co."?

Objected to by counsel for defendants as argument-ive.

A. I could not tell you how they came to do it, only through the standing of the Company and its predecessors, I suppose, would govern a condition of that kind.

Q. 89. From what classes of people do you receive such?

A. All kinds, merchants, professional men, every class.

Q. 90. On what subjects?

A. Asking for prices on safes; asking for price-lists; asking for information pertaining to safes and one thing and another, such as a business of that kind would qualify to.

Q. 91. When Edward C. Hall and his brothers organized Hall's Safe Company, did any confusion arise in connection with the use of that name?

60 A. Why, in the receiving of mail, yes.

Q. 92. Tell us what happened in that respect?

A. Well, letters that were intended for them would come addressed "Hall's Safe & Lock Co." Those letters would come to us; doubtless letters addressed to Hall's Safe & Lock Co., a great many went to them in the confusion.

Q. 93. You stated that you continued to receive mail intended for Herring-Hall-Marvin Co. addressed "Hall's Safe & Lock Co." and Hall's Safe & Lock Works"; to what extent and up to what time?

A. Why, we received thousands of letter- so addressed, and I am receiving them up to to-day. I think last year we received in excess of one thousand.

Q. 94. From what classes of people?

A. Just as I said, from all classes of people, bankers, merchants, lawyers, professional men.

Q. 95. And on what subjects?

A. Askings for prices for safes; asking for price-lists, and for combinations, and general information.

Q. 96. Did you make any arrangement with the Cincinnati postoffice about the delivery of such mail?

A. The only arrangement that was made, at the time the Hall's Safe Company started, the question of mail was canvassed by the directors of the Herring-Hall-Marvin Company, and it was concluded to notify the various postmasters where we had branches and factory including Cincinnati, that the Herring-Hall-Marvin Com-

pany were successors to the Hall's Safe & Lock Company, and under the successorship were entitled to all mail addressed "Hall's Safe & Lock Company"; and with that, why, there has been one or two exceptions taken, but the general mail so addressed has been forwarded to the Herring-Hall-Marvin Co. and the Herring-Hall-Marvin Safe Company except in Chicago the postmaster declined to do it, claiming that there was a Hall's Safe & Lock Co. there organized under the laws of Illinois, and pending a decision as to the rightful use of the name that he would be compelled to deliver Hall's Safe & Lock Company's mail so addressed to that other concern, which he has pursued up to the present time; so outside of the Chicago mail, I think that the majority of the mail addressed to Hall's Safe & Lock Company has come to the Herring-Hall-Marvin Company and the Herring-Hall-Marvin Safe Company.

Q. 97. Has any of that mail according to your observation been intended for the defendant company, Hall's Safe Company?

61 A. Yes sir, and when so found I have had it forwarded promptly to them.

Q. 98. To what extent did you find mail intended for the defendant company addressed to "Hall's Safe & Lock Co.," or to "Hall's Safe & Lock Works"?

A. I could not qualify as to the number; sometimes one mail would bring one letter, or two or three letters; then a few days would go by and then come in again; but there was a fair average number of those letters that were intended for the Hall's Safe Company; but a minor quantity in comparison to what we construed as belonging to the Herring-Hall-Marvin Co. and the Herring-Hall-Marvin Safe Company.

Q. 99. Did the defendant company send you mail which they had received addressed to "Hall's Safe Company," which they admitted belonged to you?

A. Once in a while, yes, sir, whenever they had a letter that was found pertaining to ourselves, why, they would either communicate or send it, just how many I have never recorded or made a note of.

Q. 100. Have you had any means of knowing whether they have sent you all the mail that was intended for Herring-Hall-Marvin Company or the successors of Hall's Safe & Lock Company?

A. I have no means, Mr. Maxwell, aside from the fact that such mail as they thought belonged to us was forwarded.

Q. 101. They simply sent you such mail as they chose to send you?

A. I would not put it that way—such mail as they thought pertinent to ourselves. I would not want to qualify to that.

Q. 102. They never submitted the mail to any third person to let him determine whether it belonged to them or to you?

A. No, there was never any of that.

Q. 103. Have the defendants had an office in the city of New York?

A. The Hall's Safe Company, yes, they have an office there. I

don't know the number; I think it is 393, it is right almost opposite to our store; we are No. 400.

Mr. MAXWELL: I will offer in evidence in behalf of plaintiff the defendants' advertisement in Munsey's Magazine for December, 1901 and ask that same be marked as Pl'ff's Exhibit No. 4, J. L. L.

62 The paper so offered was marked as requested, and is made part thereof.

Mr. MAXWELL: I also offer defendants' advertisements in the New York Sun of dates of April 15, *April 15,* April 18, and April 26, 1901, issue, and ask that same be marked respectively as Plaintiff's Exhibits No. 5, No. 6, and No. 7, J. L. L.

The paper so offered was marked as requested, and is made part hereof.

Mr. COCHRAN: Please note an objection to the offer as the defendants' advertisements.

Q. 104. Who were the selling agents of the defendants in New York City in November, 1903.

A. I cannot answer that except from the name that appears on this bill here, the Kinsey, Rainier & Thomson Company; I am not familiar with the affairs of the Hall's Safe & Lock Company in New York aside from what would appear on the document shown.

Q. 105. What safes did the Kinsey, Rainier & Thomson Company sell?

A. The product of the Hall's Safe Company.

Q. 106. Of the defendant Company?

A. Yes.

Mr. MAXWELL: I offer in evidence in behalf of the plaintiff a statement of account of The Kinsey, Rain-er & Thomson Company against the Herring-Hall-Marvin Safe Company, dated Nov. 2, 1903, for the purpose of calling attention to the use of the term, "Hall's Safes," and will ask that the same be marked as Pl'ff's Exhibit No. 8, J. L. L.

Said paper offered is so marked and made a part hereof.

Q. 107. I show you a letter dated Louisville, Ky., March 28, 1903, from the J. I. Case Threshing Machine Co., addressed "Hall's Safe Company," Cincinnati, O., and ask you to what Company that refers?

A. I don't call that to mind, Mr. Maxwell. I should rather infer, though, that it was intended for the Herring-Hall-Marvin Company in view of the fact that Mr. Mertz at that time was selling their safes. Mr. Mertz is a safe mechanic in Louisville, and he has had the sales agency of safes from the Herring-Hall-Marvin Co., which was given him. He used to do work through the old house of Hall's Safe & Lock Company there, and we gave him the prices for safes of the Herring-Hall-Marvin Company up to possibly a year or so ago when he quit and is now associated with the Hall's Safe Company, as I understand.

63 Q. 109. Well, in March 28, 1903, whose agent was he at Louisville?

A. He was sales agent for the Herring-Hall-Marvin Co.

Paper above referred to as from the J. I. Case Threshing M'ch'e Co. now offered in evidence in behalf of plaintiff, and marked Pl'ff's Exhibit No. 9, J. L. L., and made part hereof.

Q. 110. By whom was Herring-Hall-Marvin Safe Company organized, and for what purpose?

A. By the stockholders and creditors of Herring-Hall-Marvin Company.

Mr. COCHRAN: I object to the question and answer, as the Articles of Incorporation and the subscription books of the Herring-Hall-Marvin Safe Company are the best evidence of the objects of the Company and the names of the subscribers.

Q. 111. For what purpose was Herring-Hall-Marvin Safe Co. organized by the stockholders and creditors of Herring-Hall-Marvin Company?

To which defendants by counsel interpose the same objection as above.

A. The purpose of taking over the manufacturing business selling interests, etc., from the receivers of the Herring-Hall-Marvin Company.

Q. 112. Please state whether or not Herring-Hall-Marvin Safe Company was organized for the purpose of re-organizing the Herring-Hall-Marvin Company?

A. Yes, sir.

Counsel for defendants objects to the foregoing question and answer for same reasons heretofore given, also for the further reason that it is leading.

Q. 113. What did the stockholders of Herring-Hall-Marvin Co. get in the Herring-Hall-Marvin Safe Company?

A. You mean, what they paid? They got stock for what they paid; there was an assessment on the stock?

Q. 114. Of what?

A. Twelve dollars on preferred, and six dollars on common.

Q. 115. On the stock of——

A. Of Herring-Hall-Marvin Company.

Q. 116. For what purpose?

A. For the purpose of giving capital to the reorganized interests of the Herring-Hall-Marvin Safe Company, furnish capital.

64 Q. 117. And of raising the receivership?

A. Raising the receivership.

Q. 118. Did the stockholders of the Herring-Hall-Marvin Co. get anything in exchange for their stock in the Company?

A. They got stock in the Herring-Hall-Marvin Safe Co., yes, sir.

Q. 119. How were the creditors of the Herring-Hall-Marvin Company dealt with in this re-organization?

A. Why, some of the creditors, the very small amounts, were paid in full; others were compromised with from twenty-five to fifty per cent. in cash, the large ones got twenty-five cents in cash and a cer-

tain amount in preferred and common stock of the Herring-Hall-Marvin Safe Company.

Q. 120. Has there been any interruption in the continuity of the old business of the Hall's Safe & Lock Company from the time prior to the organization of Herring-Hall-Marvin Company up to the present time?

A. Nothing except in change of location of the works, the main works of the company; and the opening up, possibly a few changes in some of the branch houses; and the changing of course in the selling force, as would necessarily govern that period.

Q. 121. When Herring-Hall-Marvin Company was organized was there any change in the way the business was carried on?

A. Yes, there necessarily would be the shutting up of some of the stores, dispensing with the services of some of the employés.

Q. 122. In the main what became of the employés of the Hall's Safe & Lock Company and the agents of the Hall's Safe & Lock Company when the business was taken over by Herring-Hall-Marvin Company?

A. They continued along from time to time; as I say, changes were made by dropping out, and possibly death.

Q. 123. Were there any changes except those which would naturally occur in the course of any going concern?

A. No—no change.

Q. 124. My question is, in short, whether the business was conducted as a going concern by the Herring-Hall-Marvin Company?

A. Yes, sir.

Q. 125. Substantially the same workmen, agents, clerks and employés?

65 A. Yes, sir.

Q. 126. And how about the offices and sales-rooms?

A. Well, some of the managers were dropped, put in different positions; the management of the business, of course, changed. Some of the crowd, of the other people, that is, the other concern was dropped out, as the representative officials were really vested in the Hall's Safe & Lock Company's officials, Edward C. Hall, W. H. Hall and myself; we had virtually the prominent positions in the management of the new business.

Q. 127. Then the combined business of these plants was dominated by persons who had been connected with Hall's Safe & Lock Company?

A. Very largely, yes. The other people took what you might call a minor position—secondary position.

Q. 128. Take the Hall's Safe & Lock Company's selling offices, was any change made at Cincinnati when the Herring-Hall-Marvin Company was organized?

A. Well, no particular change, no. It run along till we moved away to Hamilton.

Q. 129. Herring-Hall-Marvin Company continued the sales-rooms that had theretofore been used by Hall's Safe & Lock Company?

A. Yes, sir.

Q. 130. How was it at Chicago?

A. Same people kept there as sales agents as acted for Hall's Safe & Lock Company in the same place, and with the same signs—absolutely same condition apparently.

Q. 131. Now in St. Louis?

A. St. Louis was the property store branch of the Herring-Hall-Marvin Company. They had a sign up, "Hall's Safe & Lock Company." They put a sign up, "Hall's Safe & Lock Works." Later on with the name, "Herring-Hall-Marvin Company," as it was necessary under the law of the State to do.

Q. 132. During the time the Hall's Safe & Lock Co., prior to the formation of the Herring-Hall-Marvin Co., you had an office in St. Louis, did you?

A. In part, yes; there was a concern there by the name of the Starr Safe Company, who were the sales agents up to a period. They failed, we closed them out, took over the business.

Q. 133. At the time Herring-Hall-Marvin Company was formed, the business was carried on in St. Louis by whom?

66 A. Herring-Hall-Marvin Co., successors to Hall's Safe & Lock Company.

Q. 134. Did Herring-Hall-Marvin Company continue to use sales-rooms that had been used by Hall's Safe & Lock Co.?

A. Yes.

Q. 135. Did they change signs?

A. Only to put up these signs I spoke of, of "Hall's Safe & Lock Works," and "Herring-Hall-Marvin Company."

Q. 136. What sign was over the door or on the windows at St. Louis just before Herring-Hall-Marvin Company was organized?

A. Hall's Safe & Lock Company.

Q. 137. Was the words "Hall's Safes" up any place otherwise?

A. I could not say, qualify to that, Mr. Maxwell.

Q. 138. When the business was taken over by Herring-Hall-Marvin Company, was there any change, did that sign remain "Hall's Safe & Lock Company," or was it taken down?

A. It remained there till we moved up on Fourth Street from Third Street, the same sign was put up a year later on, and in addition "Hall's Safe & Lock Works" sign was put on. Then we moved from there to Washington Avenue.

Q. 139. When did you move from Third to Fourth St.?

A. I could not say, Mr. Maxwell.

Q. 140. How many years after Herring-Hall-Marvin Company was organized?

A. Oh, a year or two.

Q. 141. Was that sign, "Hall's Safe & Lock Co." carried from 3rd to 4th Street?

A. Yes.

Q. 142. How long did it remain on the 4th Street office?

A. It remained on Fourth Street up till about three years ago when we moved to Washington Avenue.

Q. 143. How was it in other cities of the United States? Did

the old signs that had been used by the Hall's Safe & Lock Company remain?

A. Well, in San Francisco we had the name of the Hall's Safe & Lock Company up, and the name of Herring-Hall-Marvin Company was places there too.

Q. 144. And was the name of the Hall's Safe & Lock Company taken down?

67 A. It is still there in that way. I would not qualify, I was there last year. Herring-Hall-Marvin Co. and Hall's Safe & Lock Company are still there. I would not say as to Hall's Safe & Lock Works.

Q. 145. How about Denver, and Minneapolis, and St. Paul?

A. We had nothing but local sales agencies there, you know. A. L. Dean & Co. operated in Denver and Omaha; but they had the name of Hall's Safe & Lock Company up in all their establishments under the agreement.

Q. 146. When the Herring-Hall-Marvin Co. succeeded Hall's Safe & Lock Company, was there any change made in those signs?

A. Not through those local agencies. I do not think A. L. Dean & Co. ever put the name of Herring-Hall-Marvin Co. They were sales agents at Chicago, Omaha and Denver—headquarters at Chicago.

Q. 147. Sales agents for whom?

A. For Hall's Safe & Lock Company, and the Herring-Hall-Marvin Company.

Q. 148. When Gray and Pownall were appointed Receivers did they continue to carry on the business?

A. Yes, sir.

Q. 149. And when Herring-Hall-Marvin Safe Company was organized, the receivership was closed, and how was the business carried on?

A. They continued and broadened it somewhat.

Q. 150. Was there any break in the business?

A. No, sir, no break.

Q. 151. Was the business carried on as a going concern?

A. Yes, sir, from first to last.

Q. 152. When the defendants organized Hall's Safe Company, did they take any of the employés of Herring-Hall-Marvin Co.?

A. You mean the workmen? Yes.

Defendants by counsel object to last above question as irrelevant and immaterial.

Q. 153. What employés did they take?

A. Why, a great many men went to their factory; some of the clerks went there.

Q. 154. Any salesmen?

A. Yes, some of the salesmen.

Q. 155. Any foremen?

A. Yes, some of the foremen.

68 Q. 156. What if any use of the name "Hall's Safe & Lock Works," "Hall's Safes," "Hall's Standard Safes," did the receivers of Herring-Hall-Marvin make?

A. They simply continued the same course that had been pursued by the Herring-Hall-Marvin Safe Co.?

Q. 157. And how about the Herring-Hall-Marvin Safe Co.?

A. They have continued, they have gone on with the same.

Q. 158. How does the Herring-Hall-Marvin Safe advertise and announce itself?

A. In the words as you see on their letter-heads, "Herring-Hall-Marvin Safe Company, Successors to Hall's Safe & Lock Company, operating Hall's Safe & Lock Works, principal factory, Hamilton, Ohio.

Q. 159. How do the works of the Herring-Hall-Marvin Safe Co. compare in size and equipment with the works of the other safe manufacturers in the United States?

A. Why, it is regarded as one of the largest safe manufacturing establishments in the country; as an evidence, we have run from five to seven hundred men constantly.

Q. 160. In what parts of the United States do you sell your goods?

A. All over.

Q. 161. From the Atlantic to the Pacific?

A. Yes.

Q. 162. And from the Gulf to the Lakes?

A. Gulf to the Lakes, yes; do an annual business of from twelve to thirteen hundred thousand a year.

At this point recess was taken until 2:00 P. M., at which time the direct examination was resumed as below same parties present.

Q. 163. I hand you letter-head which I offer in evidence, marked "Plaintiff's Exhibit No. 10, J. L. L." and ask you during what period of time was that literature used?

A. That is the literature that was gotten up in 1893, and 1894 pertaining to Hall's Safe & Lock Works.

Q. 164. Does the picture on that letter-head correctly represent the signs that you had up?

A. Why, that is presumed to be a sort of representation of the factory; of course, like all printed matter, it is more or less distorted to magnify the surroundings. The aim, however, was to show the general contour of the factory.

69 Q. 165. I was speaking as to the signs on the factory particularly?

A. "Hall's Safe & Lock Works."

Q. 166. Does that picture represent the signs that were actually on the factory?

A. Pretty generally yes, on Pearl Street and Central Avenue, and Second Street and Plum Street.

Q. 167. Have you a photograph of the sales-room at Louisville, Ky.?

A. I have a photograph here that purports to be a photograph of the sales-room in Louisville, Ky., yes.

Q. 168. Can you tell us whether it is an accurate representation of the sales-room with the signs attached?

A. Yes, sir, that is a facsimile of the sales-room at Louisville, Kentucky.

Q. 169. You have seen it, have you?

A. Lots of times, yes.

Q. 170. What street is that on?

A. Main Street.

Q. 171. During what period did you have that room with those signs?

A. That was along in the eighties.

Q. 172. How long did you continue those signs?

A. Why, they were there with the addition of the Herring-Hall-Marvin sign until the early spring of 1898, when the receivers closed up the establishment.

Q. 173. Were any of the signs that are shown on the photograph removed?

A. No, sir, only the same as I say, with the addition of the Herring-Hall-Marvin Company.

Mr. Maxwell now offers in evidence in behalf of the plaintiff, photograph of the Louisville store above referred to, and same is marked as "Plaintiff's Exhibit No. 11, J. L. L."

Mr. Maxwell also offers in evidence in behalf of plaintiff photograph below testified to as display at Minneapolis Exposition, and same is marked as "Plaintiff's Exhibit No. 12, J. L. L."

Q. 174. State what Plaintiff's Exhibit No. 12 just offered is?

A. That is a photograph that was taken of a display at the Minneapolis Exposition. The firm of John J. Tobin & Co. were the sales agents at that time; they were successors to a man named O. A. Cavan.

Q. 175. When was that Exposition?

70 A. This parade was September 23, 1891. That is going back into the time of the Hall's Safe & Lock Company, in 1891. It was a float upon which a burglar-proof safe was placed; and a sort of a cartoon effect; with the words "No go, Jim, it's a Hall—let's put." That was a sort of an appellation that we applied to a particular burglar proof product, you know, for many years; it was notorious.

Q. 176. Was that a good way of advertising your safes?

A. Well, it was one of those catchy conditions—"No go, Jim." Whenever a Hall's Burglar-proof safe was attacked, it failed to surrender its contents; and we got out that placard. We used it very largely as one of these little side-shows.

Q. 177. You referred to your agent Mertz at Louisville as having become the agent at that place of the defendants. Have the defendants secured at any other point than Louisville your former sales agents?

A. Why, yes, in two or three places.

Q. 178. Name them?

A. B. G. Hagstette, New Orleans; a man named Thrasher, at Montgomery, Alabama; a man named Norris, in Seattle, Wash.

Q. 179. How about Chicago?

A. A. L. Dean & Co., in Chicago, which merged into the Hall's Safe & Lock Company at the time just after the receivership went into effect.

Q. 180. What do you mean by "merged into the Hall's Safe & Lock Company"?

A. The receivership took effect the latter part of December, 1897; along in February, I think it was, of 1898 the firm of A. L. Dean & Co. organized Hall's Safe & Lock Company——

Q. 181. As a corporation under the laws of Illinois?

A. Yes, sir.

Q. 182. A. L. Dean & Co. had theretofore been selling agents of the Hall's Safe & Lock Co. and Herring-Hall-Marvin Co., had they?

A. Yes, sir, not exclusively as to the Herring-Hall-Marvin Co., however. They bought goods from others.

Q. 183. After A. L. Dean & Co. formed a corporation under the laws of Illinois and called themselves "Hall's Safe & Lock Company," whom did they represent at Chicago?

71 A. I guess they represented any one that they could make money out of; they represented principally the product of the Hall's Safe Company; but they handled almost anything else they could buy.

Q. 184. State whether they were selling agents in Chicago of the defendant?

A. They held themselves out to be much, yes.

Q. 185. What signs did they display, after they became selling agents of the defendants?

A. The same signs that had been used for many years, "Hall's Safe & Lock Company"—"Hall's Safes."

Q. 186. Have you any of the advertising literature of B. G. Hagstette, agent at New Orleans, while he was representing Herring-Hall-Marvin Company?

A. One communication dated January 2, 1903, came under the envelope attached thereto, addressed to "Herring-Hall-Marvin Safe Company," with a return envelope in it addressed, "B. G. Hagstette, Standard Safes and Vaults, New Orleans," in which he represents himself to be a dealer in the old reliable Hall's Standard Safes, 213 Chouteau Street.

Q. 187. Was he agent at that time of Herring-Hall-Marvin Co.?

A. He had been buying and selling safes for the Herring-Hall-Marvin Company, and later on for the Herring-Hall-Marvin Safe Company.

Q. 188. Did he represent Gray and Pownall, receivers, while they were such?

A. Yes, sir; that is, he bought goods from them.

Mr. MAXWELL: I will offer in evidence in behalf of the plaintiff circular, envelope and card of B. G. Hagstette, and ask that the

same be marked as Plaintiff's Exhibits Nos. 13, 14 and 15, respectively.

Which was accordingly done.

Q. 189. What is the printed pamphlet I show you and offer in evidence, marking the same as Exhibit No. 16, J. L. L.?

A. It is a price-list of certain catalogue goods of the Hall's Safe & Lock Company.

Q. 190. By whom was it used?

A. By the main office and the branch houses of the Herring-Hall-Marvin Company. On the stamp was the "Herring-Hall-Marvin Company, Successors to Hall's Safe & Lock Company." That was the price-list that was used in the early years of the Herring-Hall-Marvin Company's business.

72 Q. 191. Did you have that stamp, "Herring-Hall-Marvin Co., successors to" made?

A. Instructions were given to have all matter of that kind stamped, all Hall's Safe & Lock Company data, price-lists, and so forth, stamped like that.

Q. 192. Did Hall's Safe & Lock Co. have a printed catalogue?

A. Yes, sir.

Q. 193. Is this one of their illustrated catalogues?

A. That is one of them.

Mr. MAXWELL: I will offer that catalogue in evidence in behalf of the plaintiff, and ask that it be marked as Pl'ff's Exhibit No. 17, J. L. L.

Said catalogue is so marked as requested.

Q. 194. When the Herring-Hall-Marvin Company began business, what catalogue did it use?

A. They continued the use of the catalogues issued by the Hall's Safe & Lock Company, as they had a large number on hand.

Mr. MAXWELL: I offer in evidence in behalf of the plaintiff, the defendants' catalogue, published in 1900, containing on the front leaf, under the Hall's, "Sixty years—1840—1900," and ask that same be marked Pl'ff's Exhibit No. 18, J. L. L.

Said catalogue so marked and made part hereof.

Mr. MAXWELL: I also offer in evidence in behalf of the plaintiff, printed catalogue of 1902, marked on the front page, "Sixty-two years—1840—1902," and ask that same be marked as Plaintiff's Exhibit No. 19, J. L. L.

Said catalogue so marked and made part hereof.

Q. 195. What can you say about the comparison of the cuts which the defendants have put into those catalogues with the cuts used by Hall's Safe & Lock Company in its catalogue?

A. With one or two exceptions, particularly the dove-tailed process burglar-proof chest, they are identical in appearance, get-up, and shape of safes, with the possible addition of a few safes that are not shown in the Hall's Safe & Lock Co.'s catalogue.

Q. 196. Take for instance, defendants' catalogue, Exhibit No. 18, and turn to the pages of that, and also to the pages of catalogue of

the Hall's Safe & Lock Company, for the purpose of illustrating your statement that defendants' catalogues are similar to that of the Hall's Safe & Lock Company's.

73 A. Take Safe No. 317, on page 27 of the Hall's Safe Company's catalogue, Pl'ff's Exhibit No. 18; and then refer to Hall's Safe & Lock Company's catalogue, at page 35, Pl'ff's Exhibit No. 17, the safes with the exception of the ornamentation and painting, and the lettering, are identical. Take safe No. 321, on page 31, of Pl'ff's Exhibit No. 18, and safe No. 92, on page 43, of Pl'ff's Exhibit No. 17 of Hall's Safe & Lock Co.'s catalogue, the said safes with the exception of painting and embellishments are virtually the same.

Q. 197. How does it happen that the scroll-work and the size and the number of the partitions, the arrangement of boxes, should be the same in those two safes?

A. Why, I cannot say that, sir. The cuts will speak for themselves.

Q. 198. Would two safe manufacturers, unless one of them intentionally set about copying exactly the product of another, be likely to get the scrolls, and the sizes and shapes and the arrangements of the boxes so identical as they are in comparison with these two cuts?

A. I should say not.

Q. 199. Please refer to one or two more cuts for illustration?

A. Take the catalogue of the Hall's Safe Company, Exhibit No. 18, the vault fronts shown on pages 82, 84, 86, 88, 90, 96, and 99, will be found almost exactly identical with those shown in Hall's Safe & Lock Company's catalogue, Pl'ff's Exhibit No. 17, as on pages 93, 94, 104, 108.

Q. 200. What is the printed and illustrated circular which I show you and offer in evidence, marking same as Plaintiff's Exhibit No. 20? (J. L. L.)

A. It is what we call a four-page pamphlet; it is gotten out for answers to inquiries by letter from parties writing for prices, and cuts, etc. Instead of sending them an illustrated catalogue we will send them one of these pamphlets, and ask them to make a selection of the article, size, etc., such as would suit them, and then we would quote them prices, etc. The circular is headed, "Hall's Safe & Lock Works, Standard Safes," and we began to issue them in 1893 and 1894.

Q. 201. Then that circular was issued by the Herring-Hall-Marvin Company?

A. Yes sir.

Q. 202. How long was it used?

74 A. We are using it to-day. We have altered the language of it somewhat, but have continued its use up to the present time, with changes to suit prevailing sizes and condition.

Q. 203. Have you changed the picture which shows the works?

A. Oh, yes, we have dropped the cut of the works, because the factory is now at Hamilton.

Q. 204. Have you one of the catalogues that you are using now?

A. We are using no factory cut now.

Q. 205. Does the one that you use now contain the words, "Hall's Safe & Lock Works"?

A. As I said, "Herring-Hall-Marvin Company, Successors to the Hall Safe & Lock Company, operating Hall's Safe & Lock Works" is the designation on the letter-heads and other printed matter in the West.

Mr. MAXWELL: I offer in evidence the illustrated printed circular of Herring-Hall-Marvin Company, and ask that same be marked as Plaintiff's Exhibit No. 21, J. L. L., and made a part hereof.

Q. 206. I will ask you during what period that circular I have just offered and shown you was used? It seems to have been issued just at the time when Edward C. Hall was President of the Herring-Hall-Marvin Company.

A. This was a circular for the same purpose. It was gotten out immediately after the Herring-Hall-Marvin Company succeeded to the Hall's Safe & Lock Company, prior to the cut just before alluded to.

Q. 207. Did you use photographs as advertisements?

A. Not very often; sometimes we got out photographs of safes and vaults.

Q. 208. I show you photograph, which I offer in evidence and ask to have marked as Pl'ff's Exhibit No. 22, and ask you when and for what purpose it was used?

A. That was a safe that was made for export purposes, what we called "South American Safe."

Q. 209. By whom, and when?

A. By the Hall's Safe & Lock Company, and then by the Herring-Hall-Marvin Company; and now made by the Herring-Hall-Marvin Safe Company. It is a light wall safe. It was known as the "South American Safe." The cut in question is marked, "Hall's Safe & Lock Works, Cincinnati." That is one of the names that we began putting on safes at the time I have heretofore alluded to, in 1893 and 1894.

75 Q. 210. Is the same true photograph which I show you and offer in evidence, asking that the same be marked as Pl'ff's Exhibit No. 22½, J. L. L.?

A. That is a cut of a single-door South American Safe, lettered, "Hall's Safe & Lock Company, Cincinnati," and was the same character of the safe in the previous exhibit, only a single door safe.

Q. 211. When did you make safes that were labelled as shown by pl'ff's Exhibit No. 22, J. L. L.?

A. Up to the amalgamation, in 1892.

Q. 212. How did you label your South American Safes after the Herring-Hall-Marvin Company took charge?

A. They were labelled both ways—"Herring-Hall-Marvin Company," and "Hall's Safe & Lock Company," and later on, "Hall's Safe & Lock Works."

Mr. MAXWELL: I offer in evidence the defendants' advertisement on page 39, of the magazine or trade journal called "The Manufacturer and Exporter," of May 1904 issue, Volume 2, No. 7, and ask that same be marked as "Plaintiff's Exhibit No. 23, J. L. L."

Also the following advertisements of the defendants in the New York Sun, to-wit:

Issue of Nov. 27, 1901, marked as Pl'ff's Ex. No. 24, J. L. L. Issue of Jan. 28, 1902, marked as Pl'ff's Ex. No. 25, J. L. L. Issue of Jan. 20, 1902, marked as Pl'ff's Ex. No. 26, J. L. L., and Issue of Feb. 13, 1902, marked as Pl'ff's Exhibit No. 27, J. L. L.

All of which are so marked as part hereof.

Q. 213. What is the circular which I now show you and offer in evidence asking that same be marked as Pl'ff's Exhibit No. 28, J. L. L.?

A. Why, Hall's Safe & Lock Company went into the manufacture of jail work, that is steel cells, corridor work, window gratings, etc.; and they got out this pamphlet reciting the character and degrees, showing the outlines, etc.; and at one time were large builders of that work. I could not give you the date that that was issued, however, it was by the Hall's Safe & Lock Company exclusively, I should say. It was later on taken up by the Herring-Hall-Marvin Company, who built a few pieces of jail work, and then they stopped——

Q. 214. I call your attention to the advertisement on the back of the outer page of this circular, to-wit: "Hall's Safe & Lock Company. Manufacturers of Hall's Never Robbed Dove-tailed Burglar-
76 proof safes and vaults, steel jail work a specialty"; and ask you whether that was a common form of advertising?

A. Oh, yes, that was something that we used and kept before the public invariably.

Q. 215. By whom was the advertisement which I now offer in evidence marked as Pl'ff's Exhibit No. 29, J. L. L., put out?

A. By Hall's Safe & Lock Company, a section of safety deposit boxes.

Q. 216. By whom was the printed advertisement which I offer in evidence, marked as Plaintiff's Exhibit No. 30, J. L. L. issued?

A. This is a cut of safety deposit boxes gotten up similar to the one referred to in Exhibit No. 29, J. L. L., showing the changes, however, in the lock and the lock guard; and it was issued by Herring-Hall-Marvin Company, and inscribed thereon, "Hall's Safe & Lock Works," part of the literature that was gotten out heretofore referred to, beginning 1893 and 1894.

Q. 217. What is the paper I now show you and offer in evidence, marked as Pl'ff's Exhibit No. 31, J. L. L.?

A. That is a Transfer of the name of the "Hall's Safe and Lock Works, Cincinnati, Ohio," that we placed upon safes and vaults, and other finished product.

Q. 218. During what period did you use that transfer for marking safes and vaults?

A. Well, the use of the transfer was preceded by the lettering of this similar name upon the safes by hand, prior to the getting out

this transfer. As near as I can recollect this transfer was first ordered along in the latter part of 1894, or spring of 1895.

Q. 219. Was that a cheap and convenient way of putting this wording on?

A. Yes, sir, a cheap quick and convenient way, much more so than hand work. Prior to the preparation of that, a great many safes were lettered by hand with the names thereon.

Q. 220. Did the envelopes which you have referred to as received by Herring-Hall-Marvin Company and its successors, addressed "Hall's Safe & Lock Company," always contain letters addressed in the same way, or would letters be addressed in other terms?

A. Not always addressed the same way; we would sometimes get an envelope addressed "Hall's Safe & Lock Company," and the letter inside was addressed to "Hall's Safe Company."

77 Q. 221. I show you envelope and letter which I offer in evidence, marked as Plaintiff's Exhibit Nos. 32 and 33, respectively, J. L. L., and ask you whether this illustrates how letters might have been addressed on the envelope and on the inside?

A. Yes, frequently the envelope was addressed, "Hall's Safe & Lock Company," and the letter inside was addressed to "Hall's Safe Company."

Q. 222. I have asked you to produce envelopes which you have preserved addressed to you as "Hall's Safe & Lock Company" and "Hall's Safe & Lock Works." Are they before you?

A. Yes, sir. (Producing same to view). That is, from the beginning of the Hall's Safe Company's business, when the Postmaster was notified; the envelopes shown are simply mail addressed to Cincinnati and Hamilton, not to the other branch houses.

Q. 223. This is the assortment of envelopes received at those two post-offices addressed to the "Hall's Safe & Lock Co." and "Hall's Safe & Lock Works," since 1896, intended for whom?

A. I presume they were intended for Herring-Hall-Marvin Company as the successors to Hall's Safe & Lock Company. You will find some addressed to Louisville, Kansas City, and other places where the company had branch houses in the business.

Q. 224. Have you undertaken to preserve envelopes so addressed received at your agencies in other cities?

A. No, sir.

Q. 225. How does this collection happen to include some envelopes received at other cities?

A. The branches were given instructions to preserve envelopes; but it seems in the change of managers and change in clerks, they disregarded. I am so advised by recent mail, they were thrown in the waste-basket when the communications were opened.

Mr. MAXWELL: I offer this collection of envelopes which weighs 67¼ pounds, in evidence, and will ask that it be marked as Plaintiff's Exhibit No. 34.

Q. 226. How did the number of envelopes addressed "Hall's Safe & Lock Company," and "Hall's Safe & Lock Works" between 1892 and 1896 compare with those received subsequently?

A. I could not tell that, sir. Nothing was kept between 1892 and 1896; I should judge, though, that they were possibly in ex-
78 cess of the latter period. Of course the name then was a little fresher in the mind of the public than it would be later on.

Cross-examination by Mr. COCHRAN:

X Q. 1. You say you went into the employ of Hall's Safe & Lock Company in 1874?

A. Yes, sir.

X Q. 2. Were Edward C. Hall and William Hall in the employ of that company at the time you went in?

A. Yes, sir.

X Q. 3. Did Charles O. Hall, A. A. Hall, and Walker P. Hall enter the employ of the Hall's Safe & Lock Company after you became one of those employés?

A. Yes, sir, later on; I could not tell you the exact period.

X Q. 4. All of them went to work in the factory before they were of age, did they not?

A. Yes, I should say they did.

X Q. 5. And all of them continued to work in the factory?

A. In the office, not factory.

X Q. 6. In the factory or office till the business was sold to Herring-Hall-Marvin Company?

A. Yes, sir.

X Q. 7. When did Jospeh L. Hall die?

A. I think it was March 10, 1889, sir.

X Q. 8. Who were the officers of the Company from March, '89 till May 12, 1902?

A. Edward C. Hall, was president. I was Secretary. I think W. H. Hall was Treasurer part of the time. I will not qualify to that latter.

X Q. 9. These officers carried on the business of the Company then for more than three years after Mr. Hall's death?

A. Up to the time of the sell-out, yes.

X Q. 10. Would you say that Edward C. Hall and W. H. Hall, and C. O. Hall had a good practical knowledge of the business?

A. I would say that E. C. Hall and W. H. had; I think that Charley was superficial—decidedly so.

X Q. 11. Charley acted as Assistant Superintendent, did he not?

A. Yes, under William Corry for a time.

79 X Q. 12. Have you known Edward C. Hall, or W. H. Hall to be engaged actively in any other business than the safe business?

A. No, with the exception of the safe business, no. They have been associated with an adjunct concern, but not to take them from the safe business.

X Q. 13. Do you refer to the Consolidated Time Lock Co.?

A. Yes, sir.

X Q. 14. That business is intimately connected with the safe business, is it not?

A. Closely; at one time a part of that business was a part of Hall's Safe & Lock Company's business; very closely related.

X Q. 15. Have you known Charles O. Hall to be connected with any business apart from the safe business?

A. Yes.

X Q. 16. When and what was it?

A. I think it was along in the nineties, somewhere, he was connected with a sort of an appendage to a bicycle, a sprocket arrangement, something like that.

X Q. 17. Was it in 1895?

A. I would not say the year, sir; it was for two or three years.

X Q. 18. Do you know what became of that business?

A. Only it was supposed to have gone all to pieces, and entailing very serious loss upon Mr. Chas. O. Hall.

X Q. 19. In mentioning the names of the principal stockholders of the Hall's Safe & Lock Company, you omitted Sarah J. Hall; was she, or not, a holder of a very large block of stock?

A. Why, through her estate connection, yes, as trustee of the estate.

X Q. 20. Did she not individually hold a large block of the stock?

A. Why I think not, prior to Mr. Hall's death I think not. The stock ledger however, will show; of which I had charge, as I was Secretary at that time; but I think Mrs. Hall didn't have a very large amount of stock prior to her husband's death. In fact, it was a safeguard that Mr. Hall threw around himself in connection with his business interests, not to involve his wife in a condition of that kind.

X Q. 21. When the Hall's Safe & Lock Co. sold out to Herring-Hall-Marvin Co., did they require Edward C. Hall, W. H. Hall and yourself to enter into contracts of employment?

80 A. Yes, sir.

X Q. 22. Can you produce a copy of your contract?

A. I haven't got it with me; I guess I can look it up. I have not seen it for many years, but it is on file with my own papers, I think. They were almost verbatim, though, one with the other.

X Q. 23. Will you please look up your copy and if you find it attach it as an exhibit to your deposition?

A. I will attach a copy of it; there is a difference in compensation, I believe.

X Q. 24. What course did this agreement of employment take, as you recollect; to whom were the agreements handed, or where were they deposited after you executed them?

A. Why, they went with the balance of the papers, passed through the hands of the promoters and by them assigned to Herring-Hall-Marvin Company.

X Q. 25. Your agreement was not with the promoters, was it?

A. It was made through the promoters for the benefit of the Herring-Hall-Marvin Company, as I call to mind.

X Q. 26. Well, I am testing your recollection. We will see when

we get the document. Do you remember handling your contract of employment to anybody in particular at any time?

A. No, Mr. E. C. Hall had most all of those papers; he was in New York the major portion of the time.

X Q. 27. After the sale transfers were completed in May, 1892, what was done about signs on the office and factory buildings here in Cincinnati?

A. They remained as they were, with the exception that the name Herring-Hall-Marvin Company was put up on the office door, and on various doors and places. None of the Hall's Safe & Lock Company signs were obliterated, however, at that time.

X Q. 28. You say none of the Hall's Safe & Lock Co.'s signs?

A. I say none. There may have been some over the door where they wanted to put up Herring-Hall-Marvin Co., but the signs generally were not obliterated.

X Q. 29. Were they not all changed at that time to Herring-Hall-Marvin Company?

A. Not all by any means.

X Q. 30. Where were Hall's Safe & Lock Co.'s signs displayed on those buildings?

A. Displayed on some of the buildings over the doors
81 on the first floor, and under the windows, running across the face of the building.

X Q. 31. They were all on the street fronts of the buildings and none on the side fronts?

A. I don't call to mind where they all were; wherever we could put them up noticeably they were placed. We were rather prolific of signs in those days.

X Q. 32. Isn't it a fact that all of these signs upon the fronts of the buildings were painted out, and the name "Herring-Hall-Marvin Company" painted in?

A. Not all of them—no.

X Q. 33. What proportion of them were?

A. I don't know, Mr. Cochran, I could not say.

X Q. 34. How was it with reference to the sign over the Company's store in the Burnet House block?

A. That remained "Hall's Safe & Lock Company" for quite a time, and then it was changed to "Herring-Hall-Marvin Co."

X Q. 35. Can you say how long?

A. No, sir.

X Q. 36. You have said later that signs were changed to the Hall's Safe & Lock Works?

A. Yes, sir.

X Q. 37. And you have referred to a record which refreshes your recollection as to the time of the change; will you please tell us what that record is?

A. Approximately the time I said. I didn't give any specific dates, that is, as to the exact date of the month. In the Minutes of the Board of Directors dated June 6, 1894, that is the annual meeting of the Board, I find the following report made by myself as Secretary of the Company: "The various factories have been repainted and re-

pairs made thereon which the condition of the properties absolutely required. The cost thereof being charged to expense but could be properly recognized as betterments."

X Q. 38. Do you remember who did the painting?

A. That was done under the supervision of the foreman. I think Severn Ebel was foreman of the paint shop; he hired outside men and painted the works. Whether the lettering of the works was done by Mr. Ebel's men, or by a sign-writer, I do not know, but the factory was repainted. Every building was painted jet black, with white signs and black letters. The result of that work was done through a discussion of the officers of the Company during one of their meetings in the latter part of 1893 at the time the
82 name "Hall's Safe & Lock Works" was considered; and the result was that that name was outlined, was applied to all those signs. That was the last time the factory was painted—the factory buildings.

X Q. 39. You have dictated to the stenographer (in your last answer) all of the Minutes of that meeting referring to this painting?

A. I have not read all of the minutes; but I have read that clause pertaining to the painting.

X Q. 40. I mean, all of the clauses pertaining to the painting?

A. I have not read all the Minutes, but I have read the clause that refers to painting of the factories.

X Q. 41. Now isn't it a fact that this painting of buildings, generally, was done under contract with Fromriter?

A. I could not say, I don't know the party's name; I don't call it to mind. I know Mr. Severn Ebel, our painter foreman, had charge of the work, to see that it was done properly, supervision of it.

X Q. 43. You have no recollection of a written contract in connection with that work?

—. No, sir, not to my knowledge I have not.

X Q. 44. You were the Secretary of the Company in June, 1895, were you not?

A. Yes, sir.

X Q. 45. And you were also elected as Secretary of the stockholders' meeting held June 5, 1895, were you not?

A. From the Minutes, yes, I appear to be Secretary of the Company and the Secretary of the stockholders' meeting too.

X Q. 46. This is the book containing the Minutes of Herring-Hall-Marvin Company at that annual meeting of June, 1895?

A. Yes, sir.

X Q. 47. And the Directors' meeting immediately following, June 6, 1895?

A. Yes, sir.

X Q. 48. I would like to have you give me a copy of the stockholders' meeting of June 5, 1895, and of the Directors' meeting of June 6, 1895 immediately following, beginning at page 106 to page 122, omitting the Barrow, Wade & Guthrie's report, and make the same a part of this your deposition, marking it as Exhibit No. 201; will you do so?

A. Yes, sir.

X Q. 49. Do you remember the discussion at this meeting of the Directors June 6, 1895, about changing the names from Herring-Hall-Marvin Company to the separate names?

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A. Yes, I call to mind that there was a canvass of that general subject.

X Q. 50. During that who was urging the use of the old names instead of the name of Herring-Hall-Marvin Co.?

A. No one in particular; it was a general discussion.

X Q. 52. Do you remember Willis B. Marvin and Frank Herring discussing it and insisting that——

A. Yes, it was a general discussion.

X Q. 52. The Exhibits that you have offered in evidence showing change of name from Herring-Hall-Marvin Company to Hall's Safe & Lock Works have no dates upon them, have they, or any means of telling when they were first printed, or when they were used?

A. No dates, no, aside from my——

X Q. 53. Have you been unable to find blank bill-heads or letter-heads that would show dates when they were printed?

A. That would be impossible, because bill-heads in those days never stated what the work was, simply so many copies at so much money, so many pamphlets, so many circulars, without identifying any particulars.

X Q. 54. Isn't it true that in a majority of cases that the stationer printed a memorandum to show when the blank was ordered?

A. No; the quantity generally; sometimes the date, but on the general run of matter, no, not the ordinary run of matter.

X Q. 55. Who were the stationers of the Company that prepared bill-heads, order blanks, etc.?

A. We used to deal with various ones. We dealt with McBrair & Co.; Bradley & Co.; McDonald & Eich; Sullivan & Co.

X Q. 56. Can you tell who prepared the letter-heads with the picture of the old Hall's Safe & Lock Works on it at the head?

A. No, sir, I think possibly it would have been McBrair & Co. I am not sure, I could not qualify as to that; it may have their name on it; you might tell by that.

X Q. 57. I hand you Exhibit No. 10. The names of Edward C. Hall, and Richard T. Pullen, Managers, appear upon same?

A. Yes, sir.

X Q. 58. Wasn't that letter-head printed after this meeting of June 6, 1895?

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A. Well, I should infer it was printed at that time, about that time.

X Q. 59. It was at that meeting that you were designated as Managers you two were?

A. Western Managers, yes.

X Q. 60. The cuts which were used in those illustrated letter-heads were the old cuts of the Hall's Safe & Lock Works, with the name of "Hall's Safe & Lock Company" cut out and the name of Herring-Hall-Marvin Company inserted, were they not?

A. Or Hall's Safe & Lock Works, yes.

X Q. 61. After 1895 Hall's Safe & Lock Works was inserted in place of Herring-Hall Marvin Company?

A. That I would not say, my recollection goes back prior to that date.

X Q. 62. Hall's Safe & Lock Works was inserted after Herring-Hall-Marvin Company was cut out, wasn't it?

A. Not on all the cuts—on some of them.

X Q. 63. When did you first use in any printed matter the expression "Herring-Hall-Marvin Company, Successors to the Hall's Safe & Lock Company?"

A. Immediately after the taking over of the business as evidenced by the price list which appears in one of my answers.

X Q. 64. Your price-list is not dated?

A. No.

X Q. 65. And that was simply marked with a rubber stamp?

A. With a rubber stamp, as we marked pretty nearly everything at that time; used that data with a rubber stamp that we put on it.

X Q. 66. Did you order from any stationer letter-heads or bill heads, or order blanks in the name of Herring-Hall-Marvin Co., Successors to Hall's Safe & Lock Company" before the Hall's Safe Company was incorporated in the fall of 1896?

A. Yes, sir.

X Q. 67. Can you produce any such letter-heads or bill heads telling who made them, or printed them?

A. I cannot now ; I presume I can locate one, but I am in doubt, owing to our moving away.

X Q. 68. As a matter of fact you did produce such a letter-
85 head in the case pending in Chicago between the Hall's Safe & Lock Company of Illinois and the Herring-Hall-Marvin Safe Company?

A. I think it was letter-heads that were produced with those of A. L. Dean and Hall's Safe & Lock Company of Illinois making reference to that question. You have reversed what we produced; it was their data that we produced with this on it.

X Q. 69. Have you no recollection of producing letter-heads and bill-heads showing your own course of business as Herring-Hall-Marvin Company?

A. Yes, sir, bill-heads, yes.

X Q. 70. That is what I referred to?

A. No letter-heads that I call to mind.

X Q. 71. And those showed the dates at which the publishers received the order?

A. The various charges. I will not say the dates that they received the orders, I do not call that to mind. I say it shows the date that the article was charged out to the parties.

X Q. 72. Have you no duplicates of those papers?

A. No, we do not keep duplicates of those; simply goes on to the sales ledger from their bill-head and sent off. No duplicate bill is kept.

X Q. 73. Do you mean to say you have none of the blanks used

by the Herring-Hall-Marvin Company from 1892 to 1897 except those you have produced in evidence here?

A. I would say, Mr. Cochran, the probabilities are that we have not; in the magnitude of a business like ours we do not keep blank data for ten or fifteen years back; when the quantity becomes used up we either have it reprinted or have it altered and amended to bring it down to our present requirement.

X Q. 74. I will ask you if you did not send out directions to the branches of the Hall's Safe & Lock Co. to change their signs to those of the Herring-Hall-Marvin Company in May and June, 1892?

A. Not to change their signs, but to put up, to maintain their signs and put up the name of Herring-Hall-Marvin Company in addition thereto. I do not think there was a single case where they were instructed to change a single sign.

X Q. 75. Have you the letter-books of Herring-Hall-Marvin Co. during that period, May and June, 1892?

A. I presume they are on hand. I cannot qualify to that.

86 X Q. 76. Will you look and see whether you can find those books?

Mr. MAXWELL: We will have a clerk look back and see if we can find such letters; and if so, we will produce the books.

X Q. 77. Did the Hall's Safe & Lock Co. have any registered trade-marks?

A. Never that I call to mind, except the quality or quantity of Hall's Safes.

X Q. 78. They had patents, did they not?

A. Lots of them. That was one of the valuable adjuncts of the business under Mr. Joseph L. Hall.

X Q. 79. And where in the Exhibits which you have tendered "Hall's Patent Safety Deposit Boxes," "Hall's Patent Safes," etc., are mentioned, you are referring to patents that Mr. Hall or the Company owned at that time?

A. Generally, yes; it was a phrase that was used, "Hall's Patent."

X Q. 80. Did you use that expression after the patents expired?

A. We used it generally—"Hall's Patent Dove-tail"—"Hall's Patent Concrete," etc.

X Q. 81. Do you use those expressions still?

A. Not in that way.

X Q. 82. All those patents have expired?

A. Yes.

X Q. 83. Did you use those expressions after the patents expired?

A. Well, I could not tell you the date as to the patents; there was so many of them that ran along for many years, we were in the habit of referring to the device as "Hall's Patent." As to the extension of the patents, or the life of the patents, we never stood on that; it was an assertion to reinforce the sale of the article.

X Q. 84. Did you ever mark any of the safes sent out "Hall's Safes"?

A. No, there were many of them marked "Hall's Patent," but not "Hall's Safes," no, sir. We used the word "Hall's Safes" in talking of our business.

X Q. 85. You used the name "Hall's Safe & Lock Company?

A. Yes, sir.

X Q. 86. And then either the city of manufacture or city of sale, or both?

A. Yes.

87 X Q. 87. Those were the only marks put upon the safes except the ornamentation?

A. Not altogether; we put "Hall's Standard Safe" on numbers of them.

X Q. 88. What did "Hall's Standard Safe" refer to?

A. It was simply a name that was applied, an additional——

X Q. 89. For a fire-proof safe with steel lining?

A. Not any specific degree. Hall's Standard Safes were considered a superior article to go before the public, if it designated a steel lined safe, or a fire-proof safe, it was a standard article as governed by the product, unequaled. It was one of our fighting conditions. I am speaking of Hall's Safe & Lock Company now, you understand.

X Q. 90. Did you distinguish between safes of the Hall's Safe manufacture by using the term "Hall's Standard"?

A. No, sir, it was a talking article, "Hall's Standard," superior of any one; we would never qualify that assertion.

X Q. 91. You didn't print that on the circulars?

A. Yes, "Hall's Standard Safes" was put upon hundreds of them—thousands of them.

X Q. 92. But not "Hall's Safes"?

A. Not "Hall's Safes." But "Hall's Standard Safe."

X Q. 93. You say instructions were given to the postmasters to turn all mail directed to "Hall's Safe & Lock Company——

A. Addressed "Hall's Safe & Lock Co."

X Q. 94. "Cincinnati," over to the Herring-Hall-Marvin Co.?

A. Yes, sir.

X Q. 95. Of course you received all such mail till after the Hall's Safe Company was organized?

A. Those instructions were given at the time the Hall's Safe Company was organized and not before, at which time I understood they came into contact, or in communication with various postmasters of various cities where we had branches, calling upon the postmaster to send them all such mail. As soon as we heard of that I was instructed or directed by my associates to notify each and every postmaster that under the bill of sale all mail addressed "Hall's Safe & Lock Company" was the property of Herring-Hall-Marvin Company. From that on it commenced to come to us, particularly

88 from Cincinnati; and these envelopes, (Referring to Exhibit No. 34) evidence the——

Mr. COCHRAN: I object to all that part of the above answer which states what the Hall's Safe Co. said or did, as being hearsay and incompetent.

X Q. 96. Have you made any actual count of the letters received by the Herring-Hall-Marvin Safe Company addressed to "Hall's Safe & Lock Company" since 1900?

A. No, sir, with the single exception I had one of the clerks count the envelopes received or retained from Jan. 1st, 1904, to December 1, 1904; and they were a trifle in excess of one thousand. The previous year's were not counted—have not been counted.

X Q. 97. Have you any idea as to how the number of letters received in 1904 compare with those received in the previous years, 1900, 1901, 1902 and 1903?

A. I should say they were gradually diminishing; to what extent I could not say.

X Q. 98. Have you any idea how many letters received by you addressed to Hall's Safe & Lock Company were intended for Hall's Safe Company?

A. A very minor quantity, I should judge; whenever I found such a letter that applied to the Hall's Safe Company I forwarded it to them. Sometimes the envelope was addressed to Hall's Safe & Lock Company; that letter was immediately forwarded. Sometimes a letter would come in addressed to the Hall's Safe & Lock Company outside, and inside it would have a draft in which the letter would recite was in payment of certain articles. I would recognize it was for Hall's Safe Company, and that would go down immediately to the Hall's Safe Company; unless there was some direct conclusion that that letter was intended for the Hall's Safe Company it was retained.

X Q. 99. You gave the benefit of the doubt then, to the Herring-Hall-Marvin Company in every case?

A. I don't think I ever done the Hall's Safe Company an injustice in one of the cases; I qualified as conscientiously as I could.

X Q. 100. But as a matter of fact the only letters that you sent them were letters containing remittances?

A. Not always, as I say.

X Q. 100½. And letters referring to contracts which you knew you hadn't placed?

89 A. Contracts or sales, or a contract naturally pertaining to an individual safe which I recognized as their product.

X Q. 101. Are Holly, Mason, Marks & Company agents of the Herring-Hall-Marvin Safe Company?

A. They were at one time. I don't know whether they are now, or not. They operated through our San Francisco branch.

X Q. 102. Up to what time are you sure they were your agents?

A. I don't think I have seen an order or communication from that firm for the past six months; it may have come in while I was gone; but personally I have not seen anything, and I do not know of any agency. They were not a very heavy quantity at the best.

X Q. 103. Is the St. Louis branch that you have mentioned several times an agency of Herring-Hall-Marvin Safe Company?

A. It was the direct property, it was not a sales agency, it was a branch of the company.

X Q. 104. What relation did A. L. Deane & Co. bear to the Herring-Hall-Marvin Co.?

A. They were taken over by Herring-Hall-Marvin Company under the contract that they had with the Hall's Safe & Lock Com-

pany to furnish them goods at a certain prescribed price, terms, and so forth.

X Q. 105. They were dealers then, not agents of the Herring-Hall-Marvin Company?

A. We call them dealers, but I guess under a technical point they were regarded as sales agents.

X Q. 106. They bought your goods at a fixed price when they wanted to?

A. Yes.

X Q. 107. They sold them at their own price, did not account to you for anything but the price stipulated?

A. That is right.

X Q. 108. And you did not regard yourself as responsible for any representations they made in selling the goods?

A. No, sir.

X Q. 109. Do you know anything personally about the relation to the Kinsey, Rainier & Thomson Co. to the defendant company?

A. None whatever except what I have heard Mr. Hall say, that they were sales agents, a New York corporation.

X Q. 110. You don't know whether they are dealers or agents?

90 A. Of my own knowledge I do not know anything.

X Q. 111. Don't know whether they were agents similar to A. L. Dean & Co.?

A. Not of my own knowledge, sir.

X Q. 112. You say in your testimony that the defendant company had an office or branch at No. 393 Broadway, New York. Do you know whether that was a branch of the Hall's Safe Company, or was that the store of the Kinsey, Rainier & Thomson Company?

A. All I know is, the name "Hall's Safe Company" appears prominently upon the establishment. I do not know of the name of the Kinsey, Rainier & Thomson Company appearing at the present time. It did at one time.

X Q. 113. You offered in evidence one letter addressed to the Hall's Safe Company on the inside, and "Hall's Safe & Lock Co." on the outside; why did you retain that letter?

A. I don't call that letter to mind particularly. If you want my idea why it was retained, I can give it to you, but I don't call it to mind.

X Q. 114. I show you Exhibit No. 9, which you introduced in evidence stating that the letter was addressed to Hall's Safe Company, Cincinnati, Ohio, and envelope to the Hall's Safe & Lock Company; why did you retain a letter addressed to Hall's Safe Company?

A. I didn't say anything about that envelope. I didn't notice anything about that envelope; that is a misapprehension. I say, I don't call this letter to mind, except it must have been received under an envelope addressed to Hall's Safe & Lock Company and duly forwarded. Mr. Mertz being the accredited agent in Louisville, his name being referred to, the J. I. Case Threshing Machine Co. making the inquiry, it was found that such an order was on our

books, and the letter was regarded as intended for the Herring-Hall-Marvin Safe Company, and doubtless so retained. Possibly the envelope is among this bundle here, Exhibit No. 34 offered by plaintiff.

X Q. 115. You have offered in evidence also Exhibit No. 32, envelope addressed "Hall's Safe & Lock Company," and enclosure, Exhibit No. 33, addressed to Hall's Safe Company; why did you retain that letter?

A. I have no recollection of the letter in question. From the fact that it is dated Feb. 22, 1902, evidences to my mind that I was not in the office at the time of its receipt, evidently being in New
91 York as that was about the period of our annual meeting of directors, etc. That may have come in. I do not qualify to seeing all those things.

X Q. 116. Have you in your possession a list of the stockholders of the Herring-Hall-Marvin Safe Company?

A. I have not, sir. That is on file in the transfer office of the New York Security & Trust Company. You mean as of this date?

X Q. 117. No, as of the date when the business was taken over from the Receivers of the Herring-Hall-Marvin Company?

A. I have not the list. It is doubtless on file at transfer office of the Company in the New York Security & Trust Company, of New York City.

X Q. 118. Have you ever seen a list of stockholders of the Herring-Hall-Marvin Safe Company?

A. I have.

X Q. 119. Do they include all the stockholders of the Herring-Hall-Marvin Company?

A. No, not all.

X Q. 120. How large a proportion of them?

A. I would not care to say. The majority, however, the greater portion.

X Q. 121. Does that include all the creditors of the Herring-Hall-Marvin Company?

A. Not all, because some of the creditors were settled with on a cash basis; hence they did not become stockholders in the Herring-Hall-Marvin Safe Company.

X Q. 122. When the Receivers declared a dividend of about twenty-five cents on the dollar on claims proved and allowed against the Herring-Hall-Marvin Company, was that dividend paid to all creditors alike?

A. That is a receivership affair with which I am not familiar. I had nothing to do with the payment of claims whatever. The claims that passed through my hands were vouchered as to the correctness of the amounts, and sent on to the Receivers. That is the last I have ever seen or heard of them.

X Q. 123. You do not know what any creditor of the Herring-Hall-Marvin Company received from the Receivers?

A. No, sir, I don't the specific sum that was paid by the Receivers.

X Q. 124. How do you know any of them are settled with in full?

92 A. The creditors? I don't know that they are settled with in full. I know that many of them were people who had

very small amounts, and were paid in full; others received a large pro rata than the others did, but not through the Receivers. Those people that I spoke of receiving a settlement was through the reorganization committee; the Receivers paid creditors, as I understand, all alike; every creditor received from the Receivers an identical distribution pro rata of what they had in their hands. The settlement that I referred to was made with parties by reorganization committee at the time they were reorganizing the company, perfecting a new organization.

X Q. 125. They made such terms as they saw fit with each stockholder and each creditor of the old Company?

A. Not stockholder—with each creditor.

X Q. 126. Do you understand that the business is now being run for the benefit of the stockholders of the Herring-Hall-Marvin Safe Company?

A. Absolutely.

X Q. 127. For no others?

A. For no others; unqualifiedly, for the stockholders.

X Q. 128. It certainly would not be run for the benefit of either creditors or stockholders of the old Herring-Hall-Marvin Company?

A. For the present stockholders alone as long as I have anything to do with it, particularly.

X Q. 129. Have any dividends been declared or paid since the Herring-Hall-Marvin Safe Company was organized?

A. No, sir, there has been earnings, but no dividends declared.

X Q. 130. When the Star Safe Co. failed in St. Louis, what did you say was done by the Hall's Safe & Lock Company?

A. The Hall's Safe & Lock Company took over the stock on hand, took over the store, and put a manager in, running the business as a——

X Q. 131. As a branch?

A. As a branch house, yes, sir.

X Q. 132. And that branch was in existence?

A. When the Herring-Hall-Marvin Company took hold of the Hall's Safe & Lock Company.

X Q. 133. And they continued the branch?

A. Yes, sir.

X Q. 134. You say that at the Louisville branch there was no change in the signs over the door?

93 A. No sir.

X Q. 135. After the sale?

A. No, sir, I say the name of Herring-Hall-Marvin Co. was put up in addition to the signs that were already there.

X Q. 136. Was it put up above Hall's Safe & Lock Co.'s sign.

A. I don't know where it was put up; but the name of Herring-Hall-Marvin Company was put up.

X Q. 137. If you don't know where it was put up, how do you know it was put up?

A. Well, the managers had instructions to put up the sign in some shape of other. I was not in Louisville for a great many years. I don't think I was there down in Louisville once during the latter period of the Herring-Hall-Marvin Co.'s business.

X Q. 138. Do you really know what was done at that branch in the way of signs after the Herring-Hall-Marvin Company bought out the Hall's Safe & Lock Company; or are you drawing an inference?

A. I am not drawing any inference. I am drawing from direct instructions to the manager to arrange to put up the name Herring-Hall-Marvin Company, incorporated under the laws of Kentucky; furthermore at that time we had the party qualify under the laws of Kentucky that he was a resident representative subject to service, etc.

X Q. 139. Was Hagstette an agent of the Herring-Hall-Marvin Company, or merely a dealer in its goods?

A. He was a dealer; and he acted in the shipping of the consignments. We had goods consigned with him for sale, and he sold them; he was to account for the proceeds up to the amount that he would have paid the Company for that article; the excess was his.

X Q. 140. When did he abandon that contract?

A. Well, I should judge the last time he visited us here was probably two years ago. I sold him a car-load of safes at that time; that was about two years ago—maybe a little more, two or three years ago.

X Q. 141. Did you have any difficulty with him?

A. None at all; he is very straightforward.

X Q. 142. Just ended the contract, as he had a right to do?

A. Just stopped. Never got any notice from him; first thing I knew a letter came saying that he had made arrangements with the Hall's Safe Company.

94 X Q. 143. How about Mr. Thrasher?

A. He was a salesman for the Hall's Safe & Lock Company and Herring-Hall-Marvin Company, I think at Montgomery, and he went with the Hall's Safe Company.

X Q. 144. He was a salesman in your employ?

A. He was a salesman, yes.

X Q. 145. Do you remember when he left?

A. I cannot tell you that.

X Q. 146. Did he go in business for himself?

A. I don't know, sir. I know he was owing us something, and we could not get any settlement out of him. I dropped him as far as I was concerned. I didn't urge his continuance; he undertook to say that he had certain claims under the receivership, and one thing and another. I concluded it was a pretty small matter, he was wedded to the other interest, and I simply stopped.

— Q. 147. How about Norris?

A. Norris was on salary and commission at our San Francisco branch. He had no store for us; he was simply a general traveling salesman for the San Francisco branch; he never had any stock of ours; he made overtures several times.

X Q. 148. And Mr. Giesting?

A. Is the manager of the San Francisco Branch.

X Q. 149. There is something about Exhibit No. 16 offered by the plaintiff, to show when or where it was used, is there?

A. Only purporting to be the price-list of the Company's goods, that's all. Supposed to be used throughout various branches with the traveling men.

X Q. 150. But you cannot tell whether that Exhibit was ever in use, or not?

A. I don't suppose it was; I would be safe in saying that duplicates of it were in use however. I suppose this was taken right out of the stock.

X Q. 151. There is nothing about that which enables you to state when it was used?

A. No, sir.

X Q. 152. Exhibit No. 17 offered by plaintiff, is there anything about that to show when it was in use?

A. My recollection of that is it was printed about 1885 to 1887.

X Q. 153. That was used by Hall's Safe & Lock Company?

A. Hall's Safe & Lock Company.

X Q. 154. There was nothing to show that plaintiff's Ex-
95 hibit No. 17 was ever used by the Herring-Hall-Marvin Company?

A. No, sir, except that it was taken from the stock and is a duplicate of others that were used by Herring-Hall-Marvin Company.

X Q. 155. Are you able to produce a copy of that catalogue that was actually used by agents of the Herring-Hall-Marvin Co.?

A. Yes, I can look up some that have been in use and bring them down to Mr. Maxwell, if he wants.

Mr. COCHRAN: I would like to have you produce one that you know has been used by an agent of the Herring-Hall-Marvin Company.

X Q. 156. I show you catalogue marked as "Defendant's Exhibit" No. 202," and ask you if you know what that is?

A. Yes, sir, that is a catalogue that was gotten out by the Herring-Hall-Marvin Company of catalogue goods.

X Q. 157. In what year?

A. I presume in 1897, as it is so dated on there; I will say that that was gotten up by Mr. Charles W. Riegel, who was my assistant in the office at that time.

X Q. 158. And that catalogue went into use?

A. Generally, yes. I would further say, if you look at the cuts in that catalogue and the cuts of the Hall's Safe & Lock Company's catalogue, Pl'ff's Exhibit No. 17, you will find they are virtually one and the same; the old cuts were used in the preparation of this No. 17.

X Q. 159. But the name "Hall's Patent" was eliminated from the cuts in the 1897 catalogue, Exhibit No. 202; and you do not find the name "Hall's Safe & Lock Co." anywhere in connection with that catalogue, do you?

A. No, sir, I don't know, I really have never gone through that, Mr. Cochran. I don't think it is, though. As to "Hall's Patent," it was concluded that to put that on a fire-proof safe for another article not covered by a patent, would be a trespass.

X Q. 160. The cuts all the way through in Exhibit 202 are dupli-

cates of the cuts in Complainant's Exhibit No. 17, with the exception that the name, "Hall's Safe & Lock Company" has been cut out and the name, "Herring-Hall-Marvin Company" inserted; isn't that the fact?

A. Not exactly all the way through. There are several safes in Exhibit 202 that do not compare in Exhibit 17.

96 Whereupon the cross-examination of the witness not being concluded, and there not being time to complete the same today, an adjournment was taken to 10:00 A. M., Wednesday, Dec. 28, 1904, at which time the further taking of this deposition was resumed, the same parties being present, to-wit:

WEDNESDAY, *Dec.* 28, 1904—10:00 a. m.

Met pursuant to adjournment, same parties present.

Cross-examination resumed by Mr. COCHRAN:

X Q. 161. Mr. Pullen, who took the photograph offered in evidence as Exhibit No. 22? (Handing.)

A. I cannot answer that, Mr. Cochran.

X Q. 162. Can you say where it was taken?

A. No, sir, we sometimes have a photographer in the factory; sometimes call outsiders in to take it. I could not identify it as being taken by any particular photographer; there is no ear-mark about it to indicate.

X Q. 163. Is the title, "Hall's Safe & Lock Works" displayed on the face of that door made by the transfer, same as Exhibit No. 31?

A. I should judge it was, yes. Of course there is a variation in those names; we had a number of those names made, some little, and some large; but it is the same process as indicated on that Exhibit, yes. I would say that I have an idea that that photograph was taken prior to the removal of the works to Hamilton, though.

X Q. 164. From whom were those transfers, such as Exhibit 31, ordered?

A. That I could not say. The Palm Brothers, I think it is, on Main Street, at one time furnished a very large amount of transfers of all kinds; whether they furnished these, or not, I cannot say; I would not qualify to that.

X Q. 165. Did they furnish all of the transfers used by your Company in Cincinnati from 1892 to 1897?

A. No, sir. A man named Meyer Friedberger furnished a whole lot of transfers at different times.

X Q. 166. Where does he live?

A. He lives in Cincinnati somewhere; I don't know just what his address is.

X Q. 167. Did Friedberger furnish any of those titles and names on the safes?

A. I should say not, Mr. Cochran, it was at a period a little later than the time he was furnishing transfers.

X Q. 168. Then if those transfers were furnished between
97 1892 and 1897 such as Exhibit No. 31, they must have been furnished by the Palm Brothers, is that right?

A. I would not qualify exclusively to that use of these transfers. I would say yes, but some of our transfers we got from other people down East, but not pertaining to this condition.

X Q. 169. Exhibit No. 22½ offered by plaintiff is an old photograph, taken during the existence of Hall's Safe & Lock Company?

A. I should say so, yes, from the indications of the photograph. Its use was continued in the product of the Herring-Hall-Marvin Company, when they took hold of the business.

X Q. 170. You have referred to a resemblance between cuts in catalogues of the Herring-Hall-Marvin Safe Company and catalogues of the defendant, the Hall's Safe Company. Is it not true that the partitions and pigeon-holes in safes of like size are of the same general character—fitted for boxes and papers of given size?

A. If you speak of the safe trade at large, no, there is a variation by different makers.

X Q. 171. How? What difference, for instance, would there be as to the smaller office safes, of fire-proof quality in their purpose and use?

A. The Mosler Safe Company, Mr. Cochran, has four or five catalogues, running anywhere from fifty to one hundred and fifty safes. That question is too general for me to answer specifically.

X Q. 172. Would an ordinary customer know the difference if he saw a cut without any names on it—would he know the difference between one safe and another—office fire-proof safe?

A. Without any identification, I would say not.

X Q. 173. In regard to vault fronts, are not those of general character as made by all manufacturers?

A. I do not know of a resemblance of any vault front in any manner that would reconcile with those made by Herring-Hall-Marvin Company and Herring-Hall-Marvin Safe Company except those made by the Hall's Safe Company, in any manner, shape or form, which from their catalogue appear to be identical with the product of the Herring-Hall-Marvin Safe Company.

X Q. 174. What is the difference between vault fronts made by the Diebold Safe Company and the Herring-Hall-Marvin Co.?

98 A. In what particular?

X Q. 175. That is what I am asking you?

A. In appearances decidedly different.

X Q. 176. I appearance on construction either?

A. Decidedly all. They all have their particular size of architraves, and size and arrangement of bolt work. I do not know of a vault front made by the Diebold Safe & Lock Co. that can be compared in a similar way in appearance to anything made by the Herring-Hall-Marvin Safe Company or the Herring-Hall-Marvin Company. They answer the same purpose, but in appearance radically different. That will apply to the Mosler Safe Company, the Remington and all other safe companies.

X Q. 177. They would not be the same sizes, you think?

A. Not altogether; there is a catalogue size, and there is a special size governed by the wants of the producer.

X Q. 178. All safe manufacturers make vault fronts of the size specified by the architect, do they not?

A. Yes; and the architect's sizes is a minor quantity, Mr. Cochran, when compared with the output of a concern such as ours?

X Q. 179. So that in the matter of size there would be no distinction?

A. There would be a distinction, yes; each manufacturer has his own specific size. You spoke of the sizes; if you will refer to Hall's Safe & Lock Company's catalogue, as to any of the vault fronts shown therein except the double door, you will find that the original size was to fit an opening in the vault wall of seventy-eight and a half inches high and thirty-one and a half inches wide, and walls twenty inches deep. If you will look in the Hall's Safe Company's catalogue, Exhibit No. 19, you will find that those sizes are duplicated in a catalogue that was issued fifteen years after the Hall's Safe & Lock Company's to which the Herring-Hall-Marvin Company took over—absolutely the same size. And you will find if you look at the Mosler's and the Diebold that they vary with that size. I have not got a Mosler catalogue or a Diebold catalogue, but if you will refer to those you will see that they vary from those sizes.

X Q. 180. Any manufacturer can make a vault front 78½ inches high?

A. Certainly if you order it, or I order it, or anybody else orders it; but they will make you any size you want. That is a catalogue condition I am referring to.

99 X Q. 181. Are you prepared to say that no other manufacturer made a vault front 78½ inches high, etc.?

A. I will say that any manufacturer will make anything you want.

X Q. 182. And it is done?

A. Is done, yes; but their catalogue size is different from this size.

X Q. 183. Herring-Hall-Marvin Safe Company has no exclusive right to make a vault front any size or any shape?

A. They have not; they have specific sizes shown by their catalogue taken over from their predecessor.

X Q. 184. They have no patents on any of their designs?

A. No patents.

X Q. 185. They have no trade-marks?

A. No trade-marks except what they maintain, and the name that they take over, if that can be classed as a trade-mark; but I don't believe it can be under a patented or copyright condition.

X Q. 186. If they can make vault fronts of the same size as those made by Herring-Hall-Marvin Safe Company, they can decorate that same front?

A. Surely.

X Q. 187. And they have done it, have they not?

A. Yes, sir, nothing to——

X Q. 188. When you receive letters at Hamilton addressed to the

Hall's Safe Company, at Cincinnati, Ohio, in what name do you answer them?

A. The Herring-Hall-Marvin Company, or the Herring-Hall-Marvin Safe Company invariably referring to the fact that we received the letter, acknowledging the receipt of the letter, and advising that the Herring-Hall-Marvin Company, or the Herring-Hall-Marvin Safe Company, who was the successors to the Hall's Safe & Lock Company, whose plant was now located at Hamilton, etc., in that strain. There was never any deception used by me or permitted by one of my employés.

X Q. 189. Your correspondence at Hamilton was all conducted in the name of Herring-Hall-Marvin Safe Company?

A. Or Herring-Hall-Marvin Company; then George A. Gray and Wright D. Pownell, Receivers; and then Herring-Hall-Marvin Safe Company.

X Q. 190. Did you ever use the name of the Hall's Safe & Lock Company in your correspondence?

100 A. Knowingly I never have, no, sir, except as alluded to herein.

X Q. 191. Who caused the insertion of the name "Hall's Safe & Lock Company" in the classified business directory at the end of the Cincinnati Directory of 1904, a clipping from which I now hand you marked as Defendant's Exhibit No. 203?

—. I would like to see that directory, Mr. Cochran. (After inspecting same.) That was prepared in the office of Herring-Hall-Marvin Safe Company in Hamilton, Ohio.

X Q. 192. You authori-ed its insertion?

A. I did.

X Q. 193. And paid for it?

A. I didn't pay for it, no, the Company paid for it.

X Q. 194. Had any such document as that been inserted prior to 1904?

A. In the Cincinnati Directory? I would not qualify as to that Mr. Cochran; I think the directories would speak for themselves if you have them. I would say generally speaking that similar advertisements in the previous directories did not appear.

X Q. 195. Is it not a fact that the name "Hall's Safe & Lock Company" disappeared from the Cincinnati Directories after 1902, and did not re-appear in the Directories until June, 1904?

A. I would not say as to the specific dates; it did disappear in that light during at least a good portion of that period.

X Q. 196. In other words, Herring-Hall-Marvin Company did not pay for inserting any such advertisement, and the receivers of the Herring-Hall-Marvin Company did not pay for inserting any such advertisement, and your Company did not pay for inserting any such advertisement, until 1904?

A. Well, I would not qualify as to this—I would not qualify generally as to that; I would say generally, no.

X Q. 197. Your best recollection is that they didn't?

A. Didn't—yes.

X Q. 198. Who caused the insertion of the advertisement which

I now show you in Trow's 1904 Greater New York Business Directory, page 1246, which I now show you, marked Exhibit 204, offered by defendants?

A. Mr. Cochran, this is the first time I have ever seen that advertisement. It was done through the New York establishment
101 of Herring-Hall-Marvin Safe Company; I have no doubt either by Mr. Tenney, President of the Company—first time I have ever seen it.

X Q. 139. You knew that they were making such advertisements?

A. I didn't; I have never seen it; didn't know anything about it till you have just shown it to me. I presume, though, in the conduct of the business there is no question but what it was inserted as it appeared.

X Q. 200. Who caused the insertion in the New York Business Telephone Directory of July 1, 1904, of the name "Franklin 3093, Hall's Safe & Lock Company, 400 Bway," at page 281, which I now show you, marked as Defendant's Exhibit No. 205?

A. This is the first I have ever seen or known of such advertisement. I have no doubt it was inserted by Mr. Tenney, President of the Company.

X Q. 201. Who caused the insertion in the Telephone Directory of the New York Telephone Company, May 10, 1904, of the name "Franklin 3093, Hall's Safe & Lock Co., 400 Bway," on page 502, which I now show you and mark as Defendants' Exhibit No. 206."

A. The same answer, Mr. Cochran, as applies to the two preceding questions will cover that case. I have never seen it, I don't know anything about it.

X Q. 202. The Telephone No. "Franklin, 3093" is the telephone of the Herring-Hall-Marvin Safe Company, is it not?

A. I understand it was then; it was. I presume it is yet.

X Q. 203. And the address, "400 Broadway," is the address of the Herring-Hall-Marvin Safe Company's store, is it not?

A. Yes, sir.

X Q. 204. Who caused the insertion of the advertisement which I now show you marked as Defendants' Exhibit 207, in the American Banker, at page 353, dated Feb. 22, 1902?

A. Same answer will apply to that as to the three previous questions. Mr. Tenney, I have no doubt was the party who——

X Q. 205. And the telephone address and location given under the name of the "Hall's Standard Safes," etc., "Hall's Safe & Lock Company" is the telephone address and the office address of the Herring-Hall-Marvin Safe Company, is it not?

102 A. Yes, telephone "3093 Franklin," I think, and location, 400 Broadway.

X Q. 206. Who was in charge of your agency in Baltimore, Mr. Pullen?

A. At what time?

X Q. 207. In February, 1904?

A. Mr. Walter Ryan, Manager of the Philadelphia branch of Herring-Hall-Marvin Safe Company, assisted by Mr. Tenney who just after the fire went there and stayed for a period.

X Q. 208. I will show you a part of the first page of the Baltimore News, of Saturday evening, Feb. 27, 1904, marked as Defendants' Exhibit No. 208, and ask you who caused the insertion of an advertisement on that page beginning "The only Office of Hall's Safe & Lock Company of Cincinnati, Ohio, is located at 304 East Lexington Street?"

A. Mr. Cochran, this is the first that I have seen of the said paper. Mr. Tenney, the President of the Company at that time was in Baltimore at that time, and I under-stood was attending to advertisements; I have no doubt but he was the one that wrote up and inserted those cards.

X Q. 209. Under that advertisement telephones are given as "Portland 970, Mt. Vernon, 2306." Are those the telephones in your Branch there in Baltimore?

A. I don't know, sir.

X Q. 210. Is 304 East Lexington Street the office address of your branch in Baltimore?

A. That I don't know. The store is on the corner of—I do not call the location to mind, Mr. Cochran—it is about a square and a half from the fire district, though. It is on Lexington Avenue, but the name of the other street I don't know. It is a corner store. At the time of the fire it was an inside store; from there they moved into the corner store a little later on.

X Q. 211. Will you look at the advertisement of the Herring-Hall-Marvin Safe Company in another part of the same page, and see if that refreshes your recollection as to the office of said Company and its telephone numbers? (Handing.)

A. I don't know anything about telephone numbers, Mr. Cochran, never having any occasion to come in contact with them. As to its being 304 East Lexington Street, I cannot say; it was on
103 Lexington Street, and I think some other street; as to the exact number, I would not say; but I would not hesitate to say from the print that it must be so, or else Mr. Tenney or no other officer would have put it in, a fictitious address.

X Q. 212. When did Mr. Tenney begin inserting such advertisements as those in the New York directories and in the newspapers of the country at New York?

A. I cannot say, Mr. Cochran. No dates have been fixed in my mind; in fact nothing was said. He was an Eastern executive, and he ran things generally without going into the detail of consultation on that point.

X Q. 213. When did Mr. Tenney become President of the Company?

A. Well, in the beginning when the Company was organized, I think, December 20, 1900.

X Q. 214. Did he have any connection with the Herring-Hall-Marvin Company?

A. As a stockholder.

X Q. 215. As an officer?

A. No.

X Q. 216. Had he anything to do with the management of the Company during the time of the receivership?

A. No, sir.

X Q. 217. Do you know of any such advertisements being inserted in the city directory and the New York periodicals during the time of the receivership of Herring-Hall-Marvin Company?

A. I have not any such knowledge. I should say not, as the receivers didn't do a great amount of advertising during their term of office.

X Q. 218. Have you any knowledge of such advertisements for a year prior to the receivership by the Herring-Hall-Marvin Co.?

A. I could not answer that; the name evidently appeared in the directories of New York City, I don't think there is any question about that; but under what heading I cannot say.

X Q. 219. Did the name of Hall's Safe & Lock Company appear in the New York directories?

A. I could not say, Mr. Cochran; I have never seen it at that time.

X Q. 220. You may look at the small pamphlet which I now hand you, marked Defendants' Exhibit No. 209, and state what that is?

104 A. That is a copy of the price-list of the Herring-Hall-Marvin Company governing their catalogue of 1897, which you referred to as Defendants' Exhibit No. 202.

X Q. 221. When was that catalogue printed, and by whose order?

A. That was printed in 1897; it was prepared by Mr. Chas. W. Riegel, who was assistant to myself in the Hamilton office.

X Q. 222. When did the Herring-Hall-Marvin Company move from Cincinnati to Hamilton?

A. They began building their works in 1896; completed them in the fall of 1897, I think it was on the 1st day of November, 1897, the office force went up there and it became a settled condition.

X Q. 223. Did the Herring-Hall-Marvin Company or the Receivers maintain an office in Cincinnati after moving to Hamilton?

A. No, sir.

X Q. 224. Did the Herring-Hall-Marvin Safe Company open an office in Cincinnati at any time; if so, when?

A. Yes, sir, opened an office in the—I think it began the 1st of August, they took possession, 1904, in the First National Bank Building.

X Q. 225. Mr. Pullen, you were Secretary of the Herring-Hall-Marvin Company for three or four years after its organization in 1902?

A. Yes, sir.

X Q. 226. And as such you had supervision of printing the charter and by-laws of the company.

A. The original printing was prepared, I think, by the promoters, not by me. I attended to the printing of the amended series of by-laws, but not the original.

X Q. 227. You have seen the original as printed?

A. Yes, sir.

X Q. 228. And compared it with the charter and by-laws as they appear in the minutes of the Company—records of the Company?

A. Yes, sir.

X Q. 229. State whether the Exhibit which I now offer, marked as Defendants' Exhibit No. 210, is a correct copy of the charter and by-laws of the Company?

A. The original, yes.

X Q. 230. For what purpose were these pamphlets printed.

A. For what purpose? Why, for distribution to the
105 stockholders if they called upon the Company for a copy.

X Q. 231. Please look at the papers which I now offer you, marked Defendants' Exhibits Nos. 211 and 212, respectively, and state what they are, if you know?

A. Defendants' Exhibit No. 211 appears to be a circular communication issued by H. A. Tenney, President of the Herring-Hall-Marvin Safe Company, to the stockholders of the Company, as of date New York, Jan. 30, 1904. Exhibit No. 212 appears to be a copy of the balance sheet of the Herring-Hall-Marvin Safe Company as of date December 31, 1904. Exhibit No. 212 appears to be a copy of the balance sheet of the Herring-Hall-Marvin Safe Company as of date December 31, 1903, certified to by the accountants, Wilkinson, Rickett, Williams & Co.

X Q. 232. Do you know personally about the correctness of the items in that balance sheet?

A. Only as they appear therein, having been certified to by the accountants, Mr. Cochran.

X Q. 233. Do you know, for instance, whether all the stock of the Company was issued and charged against the assets, properly charged against the assets?

Mr. Maxwell: The question is objected to by the plaintiff as immaterial and irrelevant to the issues involved in this case.

A. As set forth on the balance sheet, Treasury stock for the amount of six hundred and sixteen thousand, eight hundred and seventy-two dollars remained in the treasury.

X Q. 234. With that exception all the stock was issued?

A. That is my understanding, yes.

X Q. 235. Do you know if any cash was contributed by the stockholders of the Herring-Hall-Marvin Safe Company towards paying the debts and liabilities of the Receivers after the transfer by the Receivers to the Herring-Hall-Marvin Safe Company?

Objected to by counsel for plaintiff, Mr. Maxwell, on same grounds as above.

A. My understanding was that what cash was contributed by the stockholders was paid into the hands of the reorganization Committee, and was not paid directly into the treasury of the Herring-Hall-Marvin Safe Company.

X Q. 236. Do you know whether the reorganization Committee paid into the treasury of the Herring-Hall-Marvin Safe Company

any moneys whatever to apply on account of the debts and
106 liabilities of the receivers?

A. No, sir, it was absorbed in the purchase of the property from the Receivers.

X Q. 237. How were the debts and liabilities of the Receivers met by the Herring-Hall-Marvin Safe Company?

Objected to by Mr. Maxwell, for plaintiff, on same grounds as before.

A. The business was bought from the Receivers by the representative of the Reorganization Committee. The Herring-Hall-Marvin Safe Company bought the business from the representatives of the Reorganization Committee. *The Herring-Hall-Marvin Safe Company bought the business from the representatives of the Reorganization Committee.*

X Q. 238. That does not answer my question.

Question No. 237 read to witness.

A. They were not met by the Herring-Hall-Marvin Safe Co. They were paid by the Reorganization Committee.

X Q. 239. Do you mean that the Herring-Hall-Marvin Safe Company took over the business free from all debts and liabilities——

A. From Mr. Drummond, the representative of the Reorganization Committee.

X Q. 240. And that the Herring-Hall-Marvin Safe Company has paid none of the debts or liabilities of the Receivers incurred just before the transfer?

A. They were paid, the debts, etc., of the Receivers, were paid by the Reorganization Committee.

X Q. 241. Then you have had no use for the cash assets and accounts receivable turned over to you by the Receivers except to carry on the business and pay dividends, if profits were earned?

A. The entire property, factory, machinery, stock in process, stock finished at the factory and branch houses, accounts receivable and every asset was turned over as a going concern by the reorganization committee to the Herring-Hall-Marvin Safe Company.

X Q. 242. A going concern has bills to pay. Were those turned over to the Herring-Hall-Marvin Safe Company?

A. No, sir, the reorganization committee paid all debts prior to that.

At this point cross-examination suspended pending arrival of certain papers sent for.

107 Redirect examination by Mr. MAXWELL:

R. D. Q. 1. A. L. Dean & Company at Chicago had a written contract with the Hall's Safe & Lock Company?

A. Yes, sir.

R. D. Q. 2. Will you please produce the contract?

A. I can produce it; I have not got it here.

Mr. MAXWELL: I will offer that contract in evidence, copy attached, marked as Plaintiff's Exhibit No. 35, dated Jan. 15, 1886.

Mr. COCHRAN: I will note an objection to the offer of the contract with A. L. Dean & Co., and to all testimony relating thereto, as irrelevant and immaterial in this case.

R. D. Q. 3. Was that contract continued by the Herring-Hall-Marvin Company?

A. By letter, yes.

To which counsel for defendants, Mr. Cochran, objected as before.

R. D. Q. 4. Can you identify the circular now handed you marked Plaintiff's Exhibit No. 36, J. L. L. which I now offer in evidence as one of the advertisements of the Hall's Safe & Lock Co.?

A. Yes, sir.

R. D. Q. 5. Can you identify the other printed slip which I hand you and offer in evidence, marked as Exhibit No. 37, as one of those advertisements?

A. Yes, sir.

R. D. Q. 6. I hand you envelope which I offer in evidence marked Exhibit No. 38, J. L. L.' and ask you whether that is the form of envelope used by the Herring-Hall-Marvin Safe Company?

A. Yes, sir, in connection with its Western interests, Mr. Maxwell.

R. D. Q. 7. Where is that envelope used?

A. From the Hamilton office; from the Chicago branch; and from the St. Louis branch of the Company.

R. D. Q. 8. How long has that form of envelope been used?

A. Ever since the Company was organized.

R. D. Q. 9. What form was used by Herring-Hall-Marvin Company?

A. A similar form was used by Herring-Hall-Marvin Company, leaving out the word "Safe" of Exhibit 38—not, however, during the entire life of the Herring-Hall-Marvin Company.

108 R. D. Q. 10. During what period of its existence?

A. Along about 1894, up to the time the wording was concluded upon.

R. D. Q. 11. Mr. Cochran has asked you about minutes of the stockholders' meeting of June 5, 1895, and the directors' meeting of June 6, 1895; please state what if any connection the proceedings of those meetings have with the use of names by the Herring-Hall-Marvin Company?

A. The stockholders' meeting June 5, 1895, followed by the Board of Directors' meeting June 6, 1895, alluding to that portion pertaining to the directors' meeting, I would say, that at that time there was quite a good deal of sentiment pertaining to conduct of the business between the East and the West. It got to be of such a nature and condition that crimination and recrimination followed; and at the directors' meeting of June 6, it was concluded to make a sort of separation of the Eastern and Western interests or business of the Company. Mr. W. B. Marvin who had not been an active participant in the conduct of the business except as a director, Mr. W. D. Pownall, who had been taken from the conduct of the sales department of the Marvin Safe Company in their store on Broad-

way, and had been placed in the factory, was concluded upon as being parties who would take an active part in the conduct of the business from that period, Mr. E. C. Hall, and myself were designated as managers of the Western business, and it was resolved at that time that the identity of the various establishments as taken over, namely the Hall's Safe & Lock Company and its product, the Herring-Safe Company, and the Marvin Safe Company, should be pressed and enlarged as much as possible under the prestige of the various goods that was turned out. The action of the Board of Directors did not allude or did not designate anything to designate at that time a specific name. The name of Hall's Safe & Lock Works had been applied and had been placed upon the buildings, as evidenced by my report as Secretary to the Directors at their meeting of June 6, 1894. At the meeting of June 6, 1895, I think it is, the names as outlined were not arrived at; it was simply resolved or concluded to press the various departmental interests of the company under the names as had been concluded upon and governed by the output of the various
factories up to taking over the same, thereby getting the
109 benefit to the fullest extent of the result of the quantities of each respective product.

R. D. Q. 12. What if anything was said or discussed with respect to pressing the use of the name "Hall?"

A. Nothing aside from the general canvass, Mr. Maxwell, that the product as produced and as put before the public for the period of years covering each respective business interest should be pounded and pushed to the extreme. I do not call to mind anything specifically was said more about Hall than Herring, or the Marvin product. It was the fact of pushing each individual quantity under its previous product condition.

R. D. Q. 13. Was there anything said about the advantage of using the name "Hall" in connection with the business?

A. Not specifically, except as I say, as applicable to the product of the various safes that had been made, Hall's Safe & Lock Company's product, the Herring Safe Company's product, the Marvin Safe Company's product, and the Herring and the Marvin governed largely in the East, and the Hall entirely in the West, you might say.

R. D. Q. 14. Was H. A. Tenney, who subsequently became President of the Herring-Hall-Marvin Safe Company, a member of the reorganization committee?

A. Yes, sir, took quite an active part in the process, in the proceedings leading up to the closing of the matter and the purchase of the business from the Receivers.

Cross-examination resumed by Mr. COCHRAN:

X Q. 244. Mr. Pullen, have you in your possession the Minutes of the Herring-Hall-Marvin Company for the year 1896?

A. Yes, sir.

X Q. 245. Please turn to the Minutes of the Directors' meeting of July 8, 1896, at page 163, and state what action was taken by the directors with reference to Mr. E. C. Hall?

A. I read the following resolution, from page 163, of said Minutes, to-wit:

"The Executive Committee reported to the Board of Directors the correspondence had by it with Mr. Edward C. Hall including a letter from Mr. Hall embracing his resignation as an employé of this Company and to date from the 1st day of August, 1896. On motion the following resolution was adopted:

110 "Resolved: That the resignation of Mr. Edward C. Hall as an officer and employé of this Company be and is hereby accepted to take effect from the 1st day of August, 1896, and that the Executive Committee are hereby empowered to enter into negotiations and conclude any new arrangement with Mr. Hall which in the judgment of the Committee may be to the interest of the Company. On motion, the following resolution was adopted:

"Resolved: That the office of Vice President recently occupied by Mr. Edward C. Hall be held open until the next quarterly meeting of this Board.

"Thereupon no further business appearing, on motion the Board adjourned. (Signed) John A. Shibley, Acting Secretary."

X Q. 246. Can you state who the Executive Committee were at this time?

A. It was Moses Mosler, William Mosler, and Francis W. Carpenter, as will appear from the Minutes of the meeting already referred to of July 8, 1896, at page 162. Mr. Moses Mosler was Chairman of the Board.

X Q. 247. Do you find anything on the Minutes of the Company during the spring and summer of 1896 relating to the retirement of William H. Hall as a director and employé of the Co.?

A. No, sir, I don't find anything.

X Q. 248. The Executive Committee would have power to arrange with Mr. Hall for the continuance or discontinuance of his services, without special instructions from the Board?

A. Yes, sir, I so understood.

X Q. 249. Mr. Pullen, all the members of the Executive Committee elected in July, 1896, were officers of the Mosler Safe Company, were they not?

A. Two of them were. Mr. Francis W. Carpenter was a director: the two Moslers were directors and officers in that Company.

X Q. 250. And they continued to act as officers of the Mosler Safe Company while acting as Executive Committee of the Herring-Hall-Marvin Company?

A. Yes, sir.

X Q. 251. Do you know of their requiring yourself or agents of the Herring-Hall-Marvin Company to pass contracts over to the Mosler Safe Company?

A. They never required that at my hands, no, sir; what they did with some of my associates, I don't know; not for myself, however.

111 X Q. 252. How long had those gentlemen been stockholders in the Herring-Hall-Marvin Company?

A. That I don't know.

X Q. 253. Don't recall a meeting in the previous February at which certain stock was purchased for those gentlemen?

A. I should say they got possession of the stock at the time the voting trust of the Herring-Hall-Marvin Company was organized,—about that time; that was in 1895 or early in 1896, Mr. Cochran.

X Q. 254. What is the "Voting Trust" that you referred to?

A. Why, there were certain parties named in whose hands the stock was placed, who acted as a committee to govern the business of Herring-Hall-Marvin Company; and a part of that condition very largely was Providence capitalists who owned Herring-Hall-Marvin Company's stock, and who owned stock in the Corliss Safe Company, which merged into the Mosler Safe Co.

X Q. 255. What was the object of this Voting Trust?

Objected to by Mr. Maxwell, for plaintiff, irrelevant to the issues in this case. And on the further ground, that the Voting Trust itself must be produced, and its terms subject to inquiry.

A. Its main object, as I understand, was to overcome or reconcile the differences that had arisen in the conduct of the business of the Herring-Hall-Marvin Company, and between the various officials who had been in charge of said interests.

X Q. 256. Do you remember for what period of time that Trust was proposed?

A. No, I don't.

X Q. 257. Would the election of a committee to serve for five years throw any light upon that subject?

A. I don't know, sir, you will have to go through the Minutes; I was not Secretary at that time.

X Q. 258. I say, did the election of a committee for the period of five years, as shown by the Minutes of the Directors' meeting July 8th, throw any light upon the length of the Trust?

A. Not that I remember.

X Q. 259. The Minutes do show they were elected for a period of five years?

A. The Executive Committee?

A. Yes.

112 X Q. 260. And this Committee had absolute control of the conduct of the business of the Herring-Hall-Marvin Company and all its agencies, from the time it was appointed?

A. Yes.

X Q. 261. Up to the receivership?

A. Yes.

X Q. 262. And this Committee acted in the matter of securing lands and putting up buildings in Hamilton, Ohio, did it not?

A. Yes.

X Q. 263. How soon after their appointment did they take steps to remove to Hamilton?

A. Why, at once.

X Q. 264. Do you know whether or not this Committee was in-

terested in real estate in Hamilton on which the factory of the Herring-Hall-Marvin Company was erected?

Objected to by counsel for plaintiff, Mr. Maxwell, as irrelevant to the issues in this case.

A. Of my own personal knowledge, no.

X Q. 265. Have you never known who held the title to the real estate?

A. Only from hear-say.

X Q. 266. Well, what have you heard, and from whom?

A. It was in the hands of the land syndicate.

X Q. 267. Who composed the syndicate?

A. There was quite a number in the syndicate. I could name two or three from hearsay, that was Mr. Mose Mosler, Mr. Wm. Mosler, Mr. Lazard Kahn, a man named Hancock, and a man named Parrish.

X Q. 268. And Mr. Carpenter?

A. Not that I know of; I never heard his name mentioned in connection with the Hamilton Land Syndicate.

X Q. 269. Have you heard of the connection of those gentlemen with the Land Syndicate, from the Moslers themselves?

A. Yes, about all I have heard came from the Moslers.

X Q. 270. Have they told you that they had an interest in such a syndicate?

A. Yes, they said that they were part holders in this land syndicate.

And further deponent saith not.

RICHARD T. PULLEN.

113 STATE OF OHIO, *Hamilton County, ss:*

I, Joseph L. Lackner, a notary public in and for the county and State above named, duly commissioned and qualified, do hereby certify that the above named Richard T. Pullen was by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, before giving his testimony, and that the deposition above subscribed as above set forth, was taken in shorthand and thereafter reduced to typewriting as foregoing by Douglas A. Brown, an expert stenographer, and was thereafter subscribed by the said witness Richard T. Pullen in my presence; that said deposition was duly taken before me pursuant to and at the time and place as in the annexed notice specified; that neither I nor the said expert stenographer are counsel, attorney or relative of either party, or otherwise interested in the event of this suit; and I further certify that I was at the time of so taking said deposition a duly commissioned and qualified notary public in the county and State aforesaid.

In testimony whereof I have hereunto set my hand and official seal this 4th day of February, A. D. 1905.

JOSEPH L. LACKNER,
Notary Public, Hamilton County, O.

Commission expiring Jan. 10, 1906.

The fees for above deposition paid by plaintiff to me, and I certify that said amount of $50.00 is just and reasonable; and I further certify that the agreements and stipulation between counsel, as herein set forth, were made and entered into.

JOSEPH L. LACKNER,
[SEAL.] *Notary Public, Hamilton County, Ohio.*

Richard T. Pullen now appears and produces a copy of his contract with the Herring-Hall-Marvin Company, and a copy of the minutes of the stockholders' meeting of June 5, 1895, and directors' meeting of June 6, 1895, and a catalogue used by an agent of Herring-Hall-Marvin Company, requested by cross-question 155, and also copies of the letters called for by cross-question 76, being letter of Herring-Hall-Marvin Company to Rand, McNally & Company, Chi-
114 cago, Illinois, dated June 17, 1892, and letters of Herring-Hall-Marvin Company, dated June 18, 1892, to the branch offices at Louisville, Kansas City, Missouri, St. Louis and San Francisco, and the same are offered in evidence marked "Defendants' Exhibits Nos. 213, 201, 214, 215, 216, 217, 218 and 219.

The plaintiff offers in evidence two photographs, No. 393 Broadway, New York, and one photograph of a truck in front of said premises, it being stipulated that said photographs were taken at plaintiff's direction on March 13, 1904, and the same are marked Plaintiff's Exhibits Nos. 39, 40 and 41. Plaintiff also offers in evidence the placard marked Plaintiff's Exhibit No. 42. It is stipulated that it is one of the placards used by the Kinsey, Rainier & Thompson Company in sending out safes from New York.

It is stipulated that the counsel for the respective parties shall retain in their possession the Exhibits offered by them, after the same have been marked for identification by the Examiner, subject to the right of opposing counsel to inspect them or to call for their production at any reasonable time.

LAWRENCE MAXWELL, JR.,
Counsel for Complainant.
W. C. COCHRAN,
Counsel for Defendant.

PL'FF'S EX. NO. 1, J. L. L., N. P.

Know all men by these presents, that Hall's Safe & Lock Company, a corporation organized and existing under and pursuant to the laws of the State of Ohio, doing business at the City of Cincinnati, in the County of Hamilton and State of Ohio, party of the first part, for and in consideration of the sum of one dollar, lawful money of the United States and for other valuable consideration which are more fully stated and set forth in an agreement of even date herewith, made and entered into by and between the parties to this instrument, the receipt of which is hereby acknowledged and the parties of the second part, their heirs, executors, administrators and assigns are forever discharged therefrom, has bargained and

sold, and by these presents does grant, bargain, sell and convey unto Jennings S. Cox, of the City, County and State of New York, and
Anson G. P. Segur, of the City of Brooklyn, County of Kings
115 and State aforesaid, parties of the second part, and unto their heirs, executors, administrators and assigns forever, all and singular its manufacturing plant, machinery, tools, patterns, buildings, fixtures, leasehold interests, stocks of safes and other merchandise, material, manufactured, unmanufactured and in process of manufacture, horses, wagons, vehicles, cartage plant and rigging, bills receivable, book accounts, moneys, debts, dues, books of account and other books, papers, office furniture, trade-marks, patent rights, trade rights, good will, and all its property and assets of every name and nature, wheresoever situated, as the same exist at the time of the delivery of these presents; to have and to hold the same unto the said parties of the second part, their heirs, executors, administrators and assigns forever.

And said Hall's Safe and Lock Company, party of the first part, does hereby, for itself and its successors, covenant, promise and agree to and with said parties of the second part to warrant and defend the sale of the said property hereby sold, unto said parties of the second part, their heirs, executors, administrators and assigns, against all and every person or persons whomsoever.

And said Hall's Safe and Lock Company, party of the first part does hereby covenant, promise and agree to and with said parties of the second, their heirs, executors, administrators and assigns, that the property and assets of said Company, as existing at the time of the execution and delivery of these presents, and as hereby sold and conveyed, embrace and include all the property and assets of every description of said Hall's Safe and Lock Company, as the same existed on the thirtieth day of June in the year eighteen hundred and ninety-one, and which appeared by and were shown upon the books of said Hall's Safe and Lock Company at said last mentioned date, except only as said assets and property have been changed or varied in the ordinary course of business.

And said Hall's Safe and Lock Company does further hereby covenant, promise and agree to and with said parties of the second part, their heirs, executors, administrators and assigns, that said assets and property of said Hall's Safe and Lock Company have not in any wise been diminished or impaired since said thirtieth day of June, eighteen hundred and ninety-one, and that said property and assets as the same are hereby conveyed, are in all respects equal in value to the assets and property of said company as the same existed on the thirtieth day of June, eighteen hundred and ninety-one, and as appeared on the books of said Company at that date.

116 For greater certainty a condensed statement of certain of the assets and property of said Hall's Safe and Lock Company and the value thereof, as the same were shown by its books on the said thirtieth day of June, eighteen hundred and ninety-one, is hereto annexed, marked "A," and the same shall be taken and deemed to be a part of these presents.

And in consideration as aforesaid, said Hall's Safe and Lock

Company, has sold, and does hereby grant, bargain, sell and convey unto said parties of the second part, their executors, administrators and assigns, all and singular the increase, profits and net earnings of the business of said Hall's Safe and Lock Company subsequent to said thirtieth day of June, eighteen hundred and ninety-one, and said Hall's Safe and Lock Company does hereby covenant, promise and agree to and with said parties of the second part, their heirs, executors, administrators and assigns that it will well and truly account to said parties of the second part for and pay over to them or their assigns the whole of said increase, profits and net earnings made or to — made since last mentioned date, and in lieu thereof, said Hall's Safe and Lock Company shall except and withdraw the sum of eighty-six thousand six hundred and twenty-five dollars, as the exact amount of such profits cannot conveniently be ascertained at this date, to which there shall be added the further sum of, two hundred and sixty-two dollars and fifty cents for each day's delay upon the part of the parties of the second part, after the first day of June, 1892, in completing the purchase of the property hereinbefore mentioned and intended to be conveyed hereby.

It is hereby expressly understood, covenanted and agreed that the business of Hall's Safe and Lock Company is purchased and taken over by the parties of the second part in all respects as a going concern.

In consideration as aforesaid, the said Hall's Safe and Lock Company does hereby guarantee the payment of all and singular the unsecured debts, dues, accounts, bills receivable, and obligations for the payment of money owing to said Hall's Safe and Lock Company, and which are herein sold and conveyed or intended to so be, and each and every of the same. And said Hall's Safe and Lock Company does hereby covenant and agree that it will execute and deliver to the parties of the second part, or to their assigns, any other or further instrument or instruments of guaranty with respect to the payment of the same or any part thereof, as by said parties
117 of the second part or their assigns may at any time or times hereinafter be reasonable required.

It is expressly understood and agreed that certain apparent overdrafts which upon the books of the said Hall's Safe and Lock Company appeared to be due and owing to the said Company from Edward C. Hall, Richard T. Pullen and William H. Hall, said apparent overdrafts not exceeding in the aggregate the sum of nine thousand (9,000.00), dollars, shall not be deemed or treated as assets of said Hall's Safe and Lock Company which are hereby sold and conveyed, nor shall said persons, or either of them be required to pay such apparent overdrafts; but this provision shall not apply to any overdrafts of said persons or any or all of them exceeding in the aggregate the sum of nine thousand (9,000.00) dollars.

In consideration as aforesaid said Hall's Safe and Lock Company does hereby covenant, promise and agree to and with said parties of the second part, their executors, administrators and assigns, that all and singular its goods, chattels, assets and property of every name and nature hereby conveyed or intended so to be, are at the time of the

execution and delivery of these presents, free, clear and discharged of and from any mortgage, lien, or other encumbrance whatsoever.

And in consideration as aforesaid, said Hall's Safe and Lock Company does hereby promise, covenant and agree to and with the parties of the second part, their executors, administrators and assigns that it, said Hall's Safe and Lock Company will make, execute and deliver, either to said parties of the second part, or to their assigns, all other and further instrument or instruments of conveyance, and will do and perform all other and further acts and things for the better or more fully conveying or assuring to and vesting in the said parties of the second part or their assigns, of all and singular the assets, chattels and property of said Hall's Safe and Lock Company, as said parties of the second part, their executors, administrators or assigns from time to time or at any time hereafter may reasonably request or require.

And in consideration as aforesaid said Hall's Safe and Lock Company does hereby covenant, promise and agree to and with the parties hereto of the second part, their executors, administrators and assigns, that it, said Hall's Safe and Lock Company will not hereafter engage in or carry on any business whatsoever, and that it will, as soon as practicable, pay and discharge all its debts and liabilities, and
118 that it will thereupon go into liquidation and procure itself to be wound up and dissolved in accordance with the laws of the State of Ohio.

In witness whereof, said Hall's Safe and Lock Company has caused these presents to be subscribed in its corporate name by its proper officer, thereunto duly authorized, and its corporate seal attested by its Secretary to be hereunto affixed this twelfth day of May, in the year eighteen hundred and ninety-one.

HALL'S SAFE AND LOCK COMPANY.
(Signed) W. H. HALL, *Pres't.*
W. C. COCHRAN, *Sec't.* [SEAL.]

Sealed and delivered in the presence of:
(Signed) LOUIS OVANSDORH.
F. H. PATTERSON.

"A."

Statement of Certain Assets of Hall's Safe and Lock Company and Their Values, as the Same Appeared on the Books of Said Company on the 30th Day of June, 1891.

Machinery, plant, tools and patterns	$157,527.93
Buildings and leasehold interests	57,634.69
Stock of finished safes	243,116.40
Stock of material raw and in process of manufacture	137,185.47
Bills receivable and book accounts	126,506.84
Cartage, plant, horses, etc	10,000.00
Total of the above mentioned assets	$821,971.33

The above mentioned machinery, plant, tools, patterns, buildings and leasehold interests have been appraised at values exceeding by $193,190.40 the sums above mentioned.

(Signed) HALL'S SAFE & LOCK CO.,
W. H. HALL, *Pres't.*

STATE OF NEW YORK, *City and County of New York, ss:*

Be it remembered that on this thirteenth day of May in the year eighteen hundred and ninety-two, before the undersigned, a
119 Notary Public in and for said County, personally came Hall's Safe and Lock Company by William H. Hall its president and W. C. Cochran its secretary the grantor of the within deed and acknowledged the signing thereof to be its voluntary act and deed for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year first above mentioned.

[SEAL.] (Signed) JAMES H. ROBERTSON,
Notary Public, New York County.

PL'FF'S EX. NO. 2, J. L. L., N. P.

Know all men by these presents, that we Jennings S. Cox, of the City, County and State of New York, and Anson G. P. Segur, of the City of Brooklyn, County of Kings and State of New York, for and in consideration of the sum of one dollar and for other valuable considerations, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto Herring-Hall-Marvin Company, a corporation organized under the laws of the State of New Jersey, and unto its successors and assigns forever, all and singular the manufacturing plant, machinery, tools, patterns, buildings, fixtures, leasehold interests, stocks of safes and other merchandise, material, manufactured, unmanufactured and in process of manufacture, horses, wagons, vehicles, cartage plant and rigging, bills receivable, book accounts, moneys, debts, dues, books of account and other books, papers, office furniture, trade marks, patent rights, trade rights, good will and all the property and assets of every name and nature, wheresoever situated, of or belonging to Hall's Safe and Lock Company, a corporation organized under the laws of the State of Ohio, as the same and all and every thereof were sold and conveyed by said Hall's Safe and Lock Company to us, the said Jennings S. Cox, and Anson G. P. Segur, by an instrument in writing and under seal, bearing even date herewith, and which instrument is herewith delivered; together with all our rights, title and interest of every name and nature in and to the said property hereby conveyed, and every part and parcel thereof, and all our rights of every description now existing or hereafter to arise as against the Hall's Safe and Lock Company under or by virtue of the said
120 instrument of conveyance of the covenants, terms or conditions thereof.

To have and to hold, all and singular, the above mentioned property and rights and every part and parcel thereof unto the said Herring-Hall-Marvin Company and to its successors or assigns forever.

And we, the said Jennings S. Cox and Anson G. P. Segur, for ourselves, our heirs, executors and administrators, do hereby jointly and severally covenant, promise and agree to and with the said Herring-Hall-Marvin Company and its successors, that we have not done, committed or suffered any act or thing whereby the said property or rights or any of the same now are or at any time hereafter shall or may be impeached, charged or encumbered in any manner or way whatsoever, and that, we and our heirs, executors and administrators will make, execute and deliver to the said Herring-Hall-Marvin Company, its successors or assigns, all other and further instrument or instruments of conveyance, and will do and perform all other and further acts and things for the better or more fully conveying or assuring to and vesting in the said Herring-Hall-Marvin Company or its successors of all and singular our right, title and interest of every name and nature in, about or concerning the property and rights aforesaid, as said Herring-Hall-Marvin Company or its successors from time to time or at any time hereafter may reasonably request or require.

In witness whereof, we have hereunto set our hands and seals this twelfth day of May in the year one thousand eight hundred and ninety-two.

JENNINGS S. COX. [SEAL.]
ANSON G. P. SEGUR. [SEAL.]

Sealed and delivered in the presence of:
L. C. WARTON.

STATE OF NEW YORK, *City and County of New York, ss:*

On this 13th day of May, 1902, before me personally came Jennings S. Cox and Anson G. P. Segur, known to me to be the individuals described in and who executed the foregoing instrument and severally acknowledged to me that they executed the same.

LOUIS O. VAN DORN,
Notary Public, N. Y. County.

121 PLFF'S. EX. NO. 3, J. L. L., N. P.

Indenture made the twentieth day of December, 1900, by and between George R. Gray, of the City of Newark and State of New Jersey, and Wright D. Pownall, of the City, County and State of New York, as Receivers of the property of the Herring-Hall-Marvin Company, a corporation organized under the laws of the State of New Jersey, parties of the first part, and Herring-Hall-Marvin Safe Company, a corporation, organized under the laws of the State of New Jersey.

Whereas, by an order duly made in and by the Circuit Court of the United States, for the Third Circuit and District of New Jersey, on or about the 23rd day of December, 1897, in a cause then pending in said court between Stephen A. Jenks, complainant and the above named Herring-Hall-Marvin Company, defendant, the above named George R. Gray and Wright D. Pownall were duly appointed Receivers for the Creditors and Stockholders of said Corporation, with full power to take into their possession all the property and assets thereof, and to perform all the duties — upon them and required by law, and with power to continue and carry on the ordinary business of said corporation; and

Whereas, by orders thereafter made in and by the Supreme Court of the State of New York for the City and County of New York and likewise by the Circuit Court of the United States for the Sixth Circuit and Southern District of Ohio, Western Division, said George R. Gray and Wright D. Pownall, were likewise appointed as such receivers in said jurisdiction; and

Whereas, said George R. Gray and Wright D. Pownall duly qualified as such receivers, and they entered into possession of the property and assets of said Herring-Hall-Marvin Company, and they have ever since continued in the possession thereof, and they have continued to carry on the ordinary business of said corporation as lawfully empowered so to do; and

Whereas, an order or decree of the Circuit Court of the United States for the Third Circuit and District of New Jersey, duly made and entered in the above named cause bearing date the 9th day of December, 1899, said Receivers were duly ordered and directed to sell at public auction on the premises of the Herring-Hall-Marvin Company, in the City of Hamilton, Butler County and State of Ohio, upon the conditions in said order set forth, and subject to confirmation by said court, all the real estate of said company, and all
122 the personal property, assets, franchises, and good will of said company, in the hands of said Receivers, or to which they should in any wise be entitled, wheresoever situated subject to the payment by the purchaser of all liens upon said property or any part thereof, and subject to the payment by said purchaser of all the expenses and liabilities of the receivership, and subject also to the assumption and performance by the purchaser of the outstanding contracts of the Receivers; all which, and all the terms and conditions of said sale will by reference to said last mentioned order or decree dated December 9, 1899, on file in the office of the Clerk of the Circuit Court of the United States for the District of New Jersey in the Third Circuit, more fully appear; and

Whereas, like orders for the sale of said property were duly made and entered in and by the Supreme Court of the State of New York for the City and County of New York, on the 12th day of April 1900, and by the Circuit Court of the United States for the Sixth Circuit and Southern District of Ohio, Western Division, on the 14th day of March, 1900; and

Whereas, under and pursuant to said orders of said several courts the said George R. Gray and Wright D. Pownall as receivers as afore-

said, did on the 31st day of May, 1900, sell the property aforesaid at public auction, at the place and in the manner required by said orders, and at said sale the said property was bid in and sold to one Walter Eugene Drumond of the City, County and State of New York for the sum of one hundred thousand dollars, and the said Drumond then and there paid to said Receivers the sum of fifty thousand dollars on account of said purchase money, and executed an acknowledgement in writing of his purchase, and an agreement to comply with the conditions of sale prescribed by the orders or decrees for the making of the same; and

Whereas, thereafter upon application of said receivers an order or decree was duly made and entered in the Circuit Court of the United States for the Third Circuit and District of New Jersey in said cause, between Stephen A. Jenks, complainant and Herring-Hall-Marvin Company, defendant, bearing date the 20th day of June, 1900, by the terms of which last mentioned order or decree the said sale, and the said Receivers' report thereof, were ratified and confirmed, and the Receivers were ordered and directed to make, execute and deliver to the said Walter Eugene Drumond, or his assigns, a good and sufficient conveyance, in the law for the said property real and personal purchased by him as aforesaid upon his or their com-
123 plying with the conditions of said sale as prescribed by the above mentioned decree for said sale, and also by said decree made the 20th day of June, 1900, and with the reservations in said last mentioned decree provided for; and

Whereas, thereafter on or about the 2nd day of July, 1900, an order was duly made and entered in and by the Supreme Court of the State of New York for the City and County of New York, confirming said sale and directing said Receivers to carry out and perform the same upon the terms and conditions prescribed in and by said decree of the Circuit Court of the United States for the Third Circuit and District of New Jersey, dated June 20, 1900, and a like order was duly made and entered by the Circuit Court of the United States for the Sixth Circuit and Southern District of Ohio, Western Division, on the 25th day of July, 1900; and

Whereas, thereafter and before the execution of this indenture said Walter Eugene Drumond duly assigned and transferred his said purchase and all rights thereunder to the Herring-Hall-Marvin Safe Company, the party hereto of the second part, and gave notice in writing to the parties of the first part, and directed them to execute and deliver this indenture to the said last named Company upon due compliance by it with the terms and conditions of said purchase.

Now this indenture witnesseth that in consideration of the premises, and of the sum of One Hundred Thousand Dollars, lawful money of the United States, to them in hand paid, the receipt whereof is hereby acknowledged, and of the due performance by the party of the second part of all the matters and things required by the terms of the said decree or either of them to be performed by the purchaser at the above mentioned sale, and of the covenants and conditions hereinafter contained said parties of the first part have sold and do hereby grant, bargain, sell and convey to the said party

of the second part and its successors and assigns forever—All that tract of land and premises situate in the City of Hamilton, in the County of Butler and State of Ohio, described as follows:

Lot number fifteen hundred and eight (1508) as known and designated upon the recorded plat of Hamilton Improvement Syndicate's second addition to East Hamilton, commencing on the North line of Grand Boulevard, where the same would be intersected by the West line of Mosler Avenue if continued North across Grand Boulevard, where same would be intersected by the West
124 line of Mosler Avenue if continued North across Grand Boulevard as shown in the Hamilton Improvement Syndicate's subdivision of East Hamilton Plat Book No. 1, pages 110 and 112, plat records of Butler County, Ohio, and as shown on the Hamilton Improvement Syndicate's second addition to East Hamilton; thence North 87 degrees West along the North line of Grand Boulevard 646.95 feet; thence North 4 degrees and 30 minutes East 437.14 feet; thence South 89 degrees East 565.51 feet to a point 80 feet distant at right angles from the center line of the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad's main track, running thence South 6 degrees, 6 minutes East parallel with said center line 442.56 feet to the place of beginning, containing 6.08 acres of land as the same is known and designated on the recorded plat of the Hamilton Improvement Syndicate's second addition to East Hamilton, together with the buildings thereon and the appurtenances thereto. Being the same premises conveyed to the Herring-Hall-Marvin Company by Lazard Kahn, Oakly V. Parrish, and Moses Mosler, as trustees of the Hamilton Improvement Syndicate, by deed dated October 12, 1897. Together with the appurtenances, and also all the leasehold interests, manufacturing plant, tools, machinery, merchandise, material and all assets, franchises, property and good will whatsoever of or belonging to the said Herring-Hall-Marvin Company, to which the parties of the first part as receivers are entitled, real, personal or mixed wheresoever situated. To have and to hold, all and singular, the real estate, leasehold interests, property, franchises and good-will hereby conveyed unto the said party of the second part, its successors and assigns to its and their use and benefit forever, subject however to the payment by said party of the second part of all liens upon said real estate or other property; and said party of the second part does hereby covenant, promise and agree to pay and discharge all such liens.

Also subject to the payment by said party of the second part of all the lawful expenses and liabilities of said receivership, as specified in said decrees and the party of the second part does hereby covenant, promise and agree to pay and discharge the same, including the amount of certain certificates of indebtedness of said receivers of even date herewith, the same amounting to One Hundred Thousand Dollars, and the interest thereupon, and which certificates of indebtedness have been issued pursuant to an order or decree of the Circuit Court of the United States for the Third Circuit
125 and District of New Jersey, bearing date the first day of December 1900; subject also to the assumption and performance

by said party of the second part, and its successors of all the outstanding contracts of the parties hereto of the first part as such receivers, and the party of the second part does hereby assume and agree to carry out and perform all such contracts. And subject also to all the terms, conditions, provisions and reservations of whatsoever name or nature contained in said orders or decrees, relating to the sale of said property, which are hereinbefore referred to or of any or either thereof.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year aforesaid.

GEO. R. GRAY. [SEAL.]
WRIGHT D. POWNALL. [SEAL.]

Signed, sealed and delivered in presence of:
JAMES E. HOWELL.
CHARLES EDGAR MILLS.

STATE OF NEW YORK, *County of New York, ss:*

Be it remembered, that on this 28th day of December, 1900, before me, Charles Edgar Mills, a Commissioner of the state of Ohio, resident in said state and County of New York, personally appeared the foregoing named George R. Gray and Wright D. Pownall, who executed the foregoing deed or instrument, and severally duly acknowledged that they executed the same as their free and voluntary act and deed for the uses and purposes therein described and mentioned, individually and as receivers within described.

In witness whereof, I have hereunto set my hand and official seal, on the day and year last above written.

[SEAL.] CHARLES EDGAR MILLS,
Commissioner of Deeds for the State of Ohio in New York, No. 115 Broadway, N. Y. City.

STATE OF NEW YORK, *County of New York, ss:*

Be it remembered, that on the 28th day of December, in
126 the year of our Lord, 1900, before me, the subscriber, a Notary Public, in and for said County, personally came George R. Gray and Wright D. Pownall, receivers of the Herring-Hall-Marvin Company, to me personally known and known to be the persons executing the foregoing deed or instrument, and severally duly acknowledged the execution thereof to be their voluntary act, for the uses and purposes therein mentioned.

In witness whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

[SEAL.] CHARLES EDGAR MILLS,
Notary Public for New York County, in New York.

I hereby certify that there was $100.00 in U. S. Revenue Stamps attached to the foregoing deed, duly cancelled.

WM. J. BECKER, *Recorder,*
Per A. GETZ, *Deputy.*

I, Wm. J. Becker, Recorder of Butler County, Ohio, do hereby certify that the within and foregoing instr-ment is a true and correct copy of Deed, from G. R. Gray and W. D. Pownall, receivers to Herring-Hall-Marvin Safe Co. recorded in Vol. 134 page 119 &c. Butler Co. Ohio, deed records.

Witness my hand and official seal this 18th day of March 1901.

[SEAL.] (Signed) WM. J. BECKER,
Recorder, Butler County, Ohio.

PL'FF'S EX. No. 35, J. L. L., N. P.

This agreement made and entered into this 15th day of January, A. D. 1886, by and between Hall's Safe & Lock Co. (a corporation duly established by the Laws of the State of Ohio), and having a place of business and doing business in the City of Cincinnati, County of Hamilton, State of Ohio, party of the first part, and A. L. Deane and James W. O'Donnell, under the firm name of A. L. Deane & Co. and having their place of business at Chicago, County of Cook and State of Illinois, party of the second part; witnesseth, that the party of the first part hereby agrees to sell to the party of the second part, the following named goods at the following named prices, viz:

127 Single Door Fire Proof Safes, No. 73, 74, 75, 76 at 33 per cent. of list price.

Single Door Fire Proof Safes, Nos. 77 and 78 at 32 per cent. of list price.

Single Door Fire Proof Safes, Nos. 79 and 80 at 31 per cent. of list price.

Single Door Fire Proof Safes, Nos. 81, 82 and 83 at 30 per cent. of list price.

Double Door Fire Proof Safes at 30 per cent. of list price.

Fire and Burglar Proof Safes at 33 per cent. of list price.

Extra for extra work and weight on Burglar Boxes.

Dwelling House Safes, South American Safes, Silk and Sectional Safes at 35 per cent. of list price.

Express Messenger Boxes at 35 per cent. of list price.

Burglar Proof Safes without dovetails at 12 cents per pound.

Burglar Proof Safes dovetailed at 13 cents per pound.

Burglar Proof Safes all Steel at 16 cents per pound.

Burglar Proof Vault Front at 13 cents per pound.

Burglar Proof Vault Linings Regular Construction at 10 cents per pound.

Fire Proof Vault Fronts, Flat and Single Geared Bolt Work at 8 cents per pound.

Fire Proof Vault Fronts, Double Geared Bolt Work at 9 cents per pound.

Fire Proof Vault Linings at 6 cents per pound.

Linings for Safes made of one plate of Steel at 11 cents per pound.

All steel Jail Work, at 12 cents per pound.

All Iron Jail Work at 7 cents per pound.

Jail Work mixed (part Steel and part Iron) at 10 cents per pound.

Fire Proof Locks including handles at $4.50 each.

Vault Door Locks (large) including handles at $9.75 each.

Vault Door Locks, (small) including handles at $8.00 each.

Drawer Locks at $4.50 per dozen.

Sub-Treasury Locks at $5.50 per dozen.

Sub-Treasury Boxes, all sizes, from 5 in. X 5 in. to 10 in. X 12 in. at $3.00 each.

"T" handles for Fire Proof Safes, $1.00 each.

"T" handles for Large Vault Door Locks, $1.25 each.

"T" handles for Small Vault Door Locks, $1.00 each.

Drawers with Key-Locks, $1.50 each.

128 Bramah Key Blanks finished, 75 cents each.

Blanks for Flat Key Inside Door Locks, 10 cents each.

Blanks for Flat Key Drawer Locks at 5 cents each.

Deposit Boxes, Catalogue Sizes and Construction, in lots of 100 to 500, $3.25 per Box.

In lots of 50 to 100, $3.50 per Box.

In lots of 25 to 50, $4.00 per Box.

In lots under 25 $4.50 per Box.

Without Japanned Tin Boxes.

All the above prices are net for goods delivered on cars or to Transportation Companies, in Cincinnati, Ohio.

All the above prices are net cash on shipment, subject to sight draft.

The party of the second part hereby agrees to buy of Hall's Safe & Lock Co. their goods at prices and terms above stated, and to occupy and do business in a store in Chicago, Illinois.

The said A. L. Deane & Co. further agree said store is to be subject to the approval of the party of the first part, as to location and appearance, the said A. L. Deane & Co. assuming all liabilities and risks of doing business in said store. The said A. L. Deane & Co. further agree to faithfully represent the goods manufactured by said Hall's Safe & Lock Co., keeping the name of the latter prominently before the public, so the identity of Hall's Safe & Lock Co. will not be lost in the business carried on by said A. L. Deane & Co.

The said A. L. Deane & Co. further agree, and obligate themselves not to represent or sell safes, vaults fronts iron or steel work of any kind or character, or other articles in this line except those manufactured by Hall's Safe & Lock Co.

It is hereby understood that the said party of the first part may increase the price of their goods but it is understood that no advance shall be made from the prices herein mentioned, until 30 days after written notice of said advance shall have been mailed to the party of the second part.

It is further agreed that said A. L. Deane & Co. are to have control of and represent the following territory, viz: The following counties in the State of Illinois, viz: Adams, Boone, Brown, Burean, Cook, Carroll, Cass, Champaign, De Kalb, De Witt, Douglas, Dupage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois,

Jo Davies, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lee—, Lovingston, Logan, Macon, Marshall, Mann, McDonough, McHenry, McLean, Menard, Mercer, Moultrie, Ogle, Peoria, Platt, Putnam, Rock Island, Sangamon, (No exclusive right to Sangamon) Schuyler, Stark, Stephenson, Tazewell, Vermillion, Warren, Whitesides, Will, Winnebago, Woodford.

Also the State of Iowa, except the following counties, viz: Adair, Adams, Audubon, Buena Vista, Carroll, Cass, Cherokee, Clay, Crawford, Dickinson, Fremont, Harrison, Ida, Lyon, Mills, Nonona, Montgomery, O'Brien, Osceola, Page, Plymouth, Pottawattamie, Sac. Shelby, Sioux, Taylor, Woodbury.

Also the State of Wisconsin, except the following counties, viz: Barron, Buffalo, Burnett, Douglas, Dunn, Pepin, Pierce, Polk, St. Croix.

The party of the first part reserve the right to sell safes or other articles manufactured or sold by them to all persons residing in the Territory that is to be worked by the party of the second part, providing said parties call at their factory or at any of their Branch Offices, or upon any of their salesmen, and the party of the second part shall not be entitled to any commission or compensation whatever on said sales, unless the said persons call upon the party of the first part, or at their Branch Offices, or upon their salesmen, by special request of the party of the second part, and the party of the second part has notified the party of the first part that the said persons would call to examine and purchase at their request; and when such sales are so made, the party of the first part shall allow the party of the second part as a commission for safe or article sold, all that it nets the party of the first part in excess of the price that the party of the second part would have to pay the party of the first part for said safe or article at prices named in this contract.

The same A. L. Deane & Co. obligate and bind themselves not to buy, or deal in any second hand safes, vault fronts, locks, or other articles other than those which may be taken in trade from time to time for work manufactured by the party of the first part, and bought by the said A. L. Deane & Co. from the party of the first part, by the said A. L. Deane & Co. in the conducting of their business.

Party of the first part shall not be liable for any damages that may arise from its inability to fill any orders which they may receive from the party of the second part, but the party of the first part agrees to use due diligence in filling such orders.

Party of the second part shall not endorse, sign, print or use the name of the party of the first part in any manner that will obligate or bind them, and it is hereby distinctly understood and agreed by the parties hereto, that the party of the first part shall not
130 be held responsible for any act or actions of the party of the second part.

If the party of the first part is at any time satisfied that the party of the second part is not working the territory assigned to them under this contract as it should be done, and to the entire satisfaction of the party of the first part, then the party of the first part may send

to any or all of said territory as many men as they see proper to sell goods manufactured, or sold by them, and the party of the second part shall not receive, or be entitled to any commission or compensation of any description for safes or other articles sold by men who are employed on salary, commission or otherwise by the party of first part in carrying out this provision.

It is expressly understood and agreed by the parties hereto, that any or all verbal agreements by whomsoever made, which would in any degree alter or modify any of the provisions of this contract, shall be null and void.

It is further understood and agreed the said A. L. Deane & Co. are to take all of the stock of safes, vaults, etc., now on hand in the Chicago Store the new work at contract price, and the second hand goods at such figures as may be mutually agreed upon, also agree to take such other articles of personal property as the party of the first part may desire to dispose of, at an agreed on price. The full amount for said stock and other articles to be paid by said A. L. Deane & Co. to said Hall's Safe & Lock Co. in cash.

The said A. L. Deane & Co. further agree to transmit to the party of the first part on receipt of same, all letters that may be received by them in relation to the past business of the party of the first part, and agree when necessary to reply to same as the interest of the case may call for, agreeing no charge shall be made against the party of the first part for such services.

It is further understood and agreed this contract may be terminated at any time by either party hereunto.

The within agreement to take effect February 1st, 1886.

In witness whereof, the said Hall's Safe & Lock Co., have hereunto set their hand and seal at Cincinnati, Ohio, this 30th day of January, A. D. 1886.

(Signed) HALL'S SAFE AND LOCK CO.
JOSEPH L. HALL, *Pres't.*

Witness:
R. T. PULLEN,
G. T. TRUMBULL.

131 In witness whereof the said A. L. Deane & Co. have hereunto set their hands and seal at Chicago, Illinois, this 16th day of January, A. D. 1886.

(Signed) A. L. DEANE.
JAS. W. O'DONNELL.
A. L. DEANE & CO.

Witness as to:
A. L. Deane & Co.
E. C. HALL.

And afterwards, to-wit; on the 7th day of February, A. D., 1905, an entry was made upon the Journal of the Court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry, Journal 7, Page 574.

Cause Continued to April Term, 1905.

This cause is by leave of court hereby continued to the next (April 1905) term of this court.

And afterwards, to-wit, on the 4th day of March, A. D. 1905, the following Depositions of W. W. Winder, Severin Ebel, Alfred W. Macbrair, Max Palm, William H. Hall and Edward C. Hall, taken on behalf of defendants, were filed in the Clerk's Office of the Court aforesaid, which said depositions are clothed in the words and figures, following, to-wit:

Depositions of W. W. Winder, Severin Ebel, Alfred W. Macbrair Max Palm, William H. Hall, and Edward C. Hall on Behalf of Defendants.

STATE OF OHIO, *Hamilton County, ss:*

In the Circuit Court of the United States, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE COMPANY, Complainant,
vs.
THE HALL'S SAFE COMPANY ET AL., Defendants.

132 Depositions in Behalf of the Defendants.

The depositions of Edward C. Hall, Wm. H. Hall, Severin Ebel, Max Palm, Wm. C. Macbrair, W. Winder and others, taken before me, D. H. Pottenger, a notary public in and for the county of Hamilton, State of Ohio, duly commissioned and qualified, pursuant to the annexed notice and at the time and place therein specified, to be read in evidence on behalf of the defendant-, The Hall's Safe Company *et al.,* in an action pending in the Circuit Court of the United States, Southern District of Ohio, Western Division, wherein said Herring-Hall-Marvin Safe Company is complainant, and The Hall's Safe Company, *et al.,* are defendants.

Appearances: Mr. Lawrence Maxwell, Jr., for complainant.
Mr. William C. Cochran, for defendants.

Agreement.

It is agreed that these depositions may be taken in shorthand and transcribed by Douglas A. Brown, an expert stenographer, after the witnesses shall have been first duly sworn by the notary before giving their said depositions.

Thereupon the witness W. W. WINDER, being first duly cautioned and sworn, was examined and testified as follows, to-wit:

Direct examination, by Mr. COCHRAN:

Q. 1. Please state your name, age, residence and occupation?

A. William W. Winder; age, sixty-eight; residence, Carthage, occupation, sign-painter.

Q. 2. Where is your place of business?

A. Number 3 East Pearl Street.

Q. 3. How long have you been engaged in the business of sign painting?

A. Fifty-four years.

Q. 4. Did you do any business for the Herring-Hall-Marvin Company?

A. No, sir.

133 Q. 5. Between 1892 and 1897?

A. Not that I know of. I have no recollection of ever doing any.

Q. 6. Do you remember the buildings on Pearl and Plum Streets occupied by the old Hall's Safe & Lock Co.?

A. Yes, sir.

Q. 7. Did you ever do any sign painting on those buildings?

A. I did.

Q. 8. Please state when?

A. I was looking up the records on that: my order-book shows it was June, 1895.

Q. 9. Please produce your order-book and allow the examiner to take a copy of your entry?

A. It is not a very presentable book, because I never had anybody to attend to it but myself; I merely made an entry of the jobs I took in. On the 17th of June, 1895, on the book, the order.

Q. 10. Just dictate the order to the stenographer.

A. "Hall's Safe & Lock Works order, alter names, $90.00." It had been changed, you know from Herring-Hall-Marvin Co. We painted it out when I re-lettered it for them.

Q. 11. What names did you paint on those buildings formerly belonging to Hall's Safe & Lock Company at this time?

A. Well, it must have been according to the order here. It was Hall's Safe & Lock Works, I presume that was it.

Q. 12. Do you remember in how many places you painted those names?

A. I could not hardly tell you that, but it was all over all the buildings wherever it had been Herring-Hall-Marvin Company.

Q. 13. Did you have to paint out the names in order to paint those in?

A. No, sir, they did that themselves. They repainted the building, and they also repainted the wood-work, and we cut it in with black, the letters white.

Q. 14. Do you remember doing any lettering for the Herring-Hall-Marvin Company, or the Hall's Safe & Lock Company in 1892?

A. No recollection of it.

Q. 15. Have you any memorandum of it?

A. No, nothing that I could find of it; I looked for it.

134 Q. 16. How soon after the booking of this order was that work done, Mr. Winder?

A. Well, it was done right along from day to day till it was completed; I don't know exactly how long, how many days was consumed in doing the work.

Q. 17. And when was the bill presented?

A. Well, when they finished it. I believe that cash-book shows that. The bill was paid on July 8, 1895. That is when the cash-book shows it was paid.

Q. 18. Dictate that entry in the cash book to the stenographer?

A. "Hall's Safe & Lock Works, ninety dollars." It was, on the cash book.

Cross-examination, by Mr. MAXWELL:

X Q. 1. Did you ever do any other work for the concern that was carrying on business when you did this painting?

A. That is the only work I ever did for them that I have any recollection of.

X Q. 2. Who ordered the work?

A. I think Mr. Hall. I made the contract with Mr. Hall if I am not mistaken.

X Q. 3. Did you personally do the work?

A. No, I had my men do it, my son and another man that I hired, a sign painter; I didn't work on it myself.

X Q. 5. What signs did you put on those buildings?

A. Well, they were all over the buildings, you know, different buildings. They were already painted, and all we did, we simply cut in with black leaving the letters white on all of the buildings around there. I do not know how many there were; a great many of them.

X Q. 6. What sign was it that you painted—what words?

A. Hall's Safe & Lock Works, I suppose, I don't think it was anything else; it may have been something else probably but I don't remember just what they were. We were working under the instruction of Mr. Hall; whatever he told us to do we done.

X Q. 7. How do you know that you painted the words Hall's Safe & Lock Works all over those buildings on that occasion?

A. Well, that is my recollection of it.

X Q. 8. When you went to work painting there were no words there at all?

135 A. No, sir; there was white spots all over the buildings from Second, Pearl, Plum, all around there.

X Q. 9. Had the buildings been recently painted?

A. Yes, sir.

X Q. 10. And there were no signs on it?

A. No signs on it, no letters.

X Q. 11. Do you know what signs had previously been on them?

A. No, I could not say positive.

X Q. 12. All you know is that you were engaged by Mr. W. H. Hall in June, 1895, to paint all over this building the sign "Hall's Safe & Lock Works"?

A. Yes, sir.

X Q. 13. And that at the time you began there were no signs on the buildings?

A. Yes, sir.

X Q. 14. And you did paint all over this building in June, 1895, the words "Hall's Safe & Lock Works"?

A. I think that is my recollection.

X Q. 15. And you rendered a bill to the Hall's Safe & Lock Works, did you?

A. Yes, sir.

X Q. 16. The account on your books stands "Hall's Safe & Lock Works"?

A. Yes, sir.

And further deponent saith not.

Signature waived by agreement of parties.

And also, SEVERIN EBEL, of lawful age, being first duly cautioned and sworn, was examined and testified as follows, to-wit:

Direct examination, by Mr. COCHRAN:

Q. 1. Please state your name, age, residence and occupation?

A. Severin Ebel, forty-nine years old; 1699 Westwood Avenue; foreman painter.

Q. 2. How long have you been engaged in the business of painting?

A. About thirty-eight years.

Q. 3. And at what factories—what places?

A. Places? Well, the Hall's Safe & Lock company, and
136 the Herring-Hall-Marvin Company, and Herring-Hall-Marvin Safe Works—Well, the last, with the Hall's Safe Company?

Q. 4. How long were you in the employ of the Hall's Safe & Lock Company?

A. Well, from 1868 to 1892.

Q. 5. And did you enter at once into employ of the Herring-Hall-Marvin Company in 1892?

A. Yes, sir, continued right on during the holidays.

Q. 6. What were your duties in the Herring-Hall-Marvin Company?

A. Foreman painter, superintending the painting department.

Q. 7. Did you make any changes in the sign on the buildings occupied by the Hall's Safe & Lock Company in 1892, if so, what?

A. In 1892 we made changes from Hall's Safe & Lock Company to the Herring-Hall-Marvin Company.

Q. 8. To what extent did you make those changes?

A. Well, those signs that were previously on the buildings were painted out and the words "Herring-Hall-Marvin Company" placed in their stead.

Q. 9. Was that true of all the signs of Hall's Safe & Lock Company that were painted on the building?

A. We tried to paint out all the Hall's Safe & Lock Company names that we could find, to a great extent around about, I don't think we slipped any to my knowledge.

Q. 10. How long did those signs, "Herring-Hall-Marvin Co." appear on the buildings after you placed them there?

A. Till we re-painted the buildings.

Q. 11. Do you remember when that was?

A. That was in the, to my best recollection, in the Spring of 1894.

Q. 12. What was done then with the names?

A. Well, the buildings were re-painted and those names were painted out—white spots put on there for relettering, because we made additional spaces for more lettering, for the sake of advertisements about the buildings.

Q. 13. Do you remember when those spaces were filled with letters, and what names were put on?

A. Well, they were painted in 1895. It was quite a time elapsed from the time the buildings were painted till they were re-
137 lettered. The change was made in 1895. Apparently the way the recollection comes to me, I figure that they were painted in the Spring of 1895; but they were painted during the hot days of ninety-five; I could not recall the months.

Q. 14. Who did the lettering?

A. Winder done the lettering at that time, in 1895.

Q. 15. Was it part of your business to letter the safes that went out from Hall's Safe & Lock Company and the Herring-Hall-Marvin Company?

A. I superintended the lettering and wording of all the markings of the safes.

Q. 16. How were the safes lettered after the Herring-Hall-Marvin Company took possession of the buildings?

A. They were lettered the "Hall's Safe & Lock Works."

Q. 17. From the beginning?

A. Yes, all those that were made or come through as new work into my hands were marked "Hall's Safe & Lock Works."

Q. 18. From the beginning, in 1892?

A. No, I am speaking now, you said after the Herring-Hall-Marvin Company—what was that question about?

Q. 19. When the Herring-Hall-Marvin Company took possession?

A. Oh, yes they was changed into Herring-Hall-Marvin Company.

Q. 20. Was that true of all safes that were finished from 1892 to 1895?

A. Most of them, the majority of them. There were some, of course, that were already finished ready to be shipped, that went to various parts of the country West of Cincinnati and South and North, that were perhaps not changed because they were all completed ready to be packed and shipped; those that were marked to go East mostly, why, we re-painted, remarked, and the Herring-Hall-Marvin Company put on.

Q. 21. How about new work?

A. New work was all changed to Herring-Hall-Marvin Co. Everything that came in new was marked "Herring-Hall-Marvin Company."

Q. 22. What names were put upon the safes after these changes in 1895 that you have been speaking of?

A. "The Hall's Safe & Lock Works."

Q. 23. How were these names put upon the safes?

A. Well, till we got the decalcomania or transfer letters from Europe they were all by hand, the special design of which I made myself.

138 Q. 24. What was the method commonly adopted of lettering safes?

A. Decalcomania.

Q. 25. These were applied in your shops?

A. Yes, sir.

Q. 26. Were there any other names put upon safes except the name "Herring-Hall-Marvin Company," and "Hall's Safe & Lock Works"?

A. At the time, at a certain period during the process while the various patterns lasted, there was another name put on; let's see—no, I will not say that. That has been discarded. No, there was no other names put on. We did at one time use another name, but that was cut out after we made the consolidation. There used to be patent dates put on those safes; but we didn't use them any more as they were an old time affair; we cut those out.

Q. 27. Did you sometimes put the name of the city where the Company was doing business on those safes?

A. We did that, yes.

Q. 28. What names did you apply?

A. Well those that went East we marked them, "New York," and those that went West, we marked them with the names of the dealers. St. Louis, why, it was Cincinnati and St. Louis; those that went to Frisco, were Cincinnati and Frisco, etc.

Q. 29. What names were being used on safes the last year before the Herring-Hall-Marvin Company moved to Hamilton?

A. Hall's Safe & Lock Works.

Q. 30. Were they used up to the time they moved to Hamilton?

A. I presume they were, because I left the Company in May, 1897, and that was several months before they moved to Hamilton.

Q. 31. Then you don't know of your own knowledge how they marked safes after May, 1897, and how the Herring-Hall-Marvin Company marked safes?

A. No, not after May, 1897; I severed my connection in May 17th—or rather, the 15th of May, 1897.

Q. 32. Under whose employ did you go at that time?

A. Oh, Hall's Safe Company.

Q. 33. Was your employment the same with them in its character as with the other?

A. Same position exactly.

Q. 34. How were the safes of the Hall's Safe Company marked?

139 A. The Hall's Safe Company, Cincinnati.

Q. 35. No other marks put upon them?

A. No other marks.

Q. 36. Or names?

A. No other names. Well, I will recall that there is another name; one of the names was marked, "Manufactured by the Hall's Safe Company," rest the same thing.

Q. 37. How long have you been with the Hall's Safe Company?

A. Since May 17, 1897, eight years this May.

Q. 38. And there has been no change in the lettering of their safes in all that time?

A. No, sir.

Q. 39. What process has been used in marking the Hall's Safe Company's safes?

A. Same thing exactly as the other—decalcomania. Names are all put on with decalcomania.

Cross-examination by Mr. MAXWELL:

X Q. 1. What signs were on the plants prior to the consolidation in 1892?

A. "Hall's Safe & Lock Company."

X Q. 2. To what extent were those signs on the plant?

A. Well, they were scattered around various parts East, West, North and South views on the same building.

X Q. 3. Very conspicuous?

A. Very conspicuous; that is, on the main building on Pearl and Plum. We have had no other names on the buildings outside of the Pearl street building. The old buildings were consisting of the Pearl and Plum corner, and part of the Central Avenue and Pearl; all the other buildings were only marked as a rule on Pearl street.

X Q. 4. Those signs were in large letters?

A. Large letters.

X Q. 5. What size letters?

A. Well, I presume those letters on the Plum and Pearl Street side on the main walls were about three feet by four, something like that.

X Q. 6. About how many such signs were there?

A. They were in two rows, two lines of letters around about the buildings on Pearl and Plum.

X Q. 7. That is, you mean on two stories of the building, the signs?

A. Two stories; well, two spaces between the windows.

140 X Q. 8. There was nobody could see those buildings without seeing those signs; they were very prominent and conspicuous, were they?

A. Very prominent.

X Q. 9. How long had they been there?

A. I could not say exactly; I presume that corner building where the signs were on was in the neighborhood of 100 feet each way.

X Q. 10. How many years had those signs been there?

A. Well, they were up there, now I should judge about, oh, they were up there I expect about eight or ten years.

X Q. 11. And prior to that time there were similar signs, were there?

A. They were in fact the same signs; they were renewed in that time, 1884 or 1883.

X Q. 12. Ever since you have known the Company the name of "Hall's Safe & Lock Company" has been conspicuously displayed in signs and advertisements, has it not?

A. They were.

X Q. 13. And it was a well known name, wasn't it?

A. Oh, yes.

X Q. 14. Did you yourself do the painting out of that name after the consolidation?

A. No, it was hired done outside, it was an outside party did it.

X Q. 15. Who was the party?

A. Well, that is going beyond my recollection. I have been trying to figure it out; I cannot say now who it is. I imagine two or three parties; but I cannot place it.

X Q. 16. You have gone around to different painters in Cincinnati, have you, to see whether they did it?

A. No, no, I am only trying to recall my own memory who the parties were. Idid have an idea that Winder had did those also, but I been informed through his partner that they didn't do the work. I thought that he did it; but my recollection don't prove right to me. I don't know who did it; I know it was done. That is all I can say just now.

X Q. 17. But without ascertaining who it was that did it, and getting access to his books, you could not tell certainly when it was done, could you?

A. Yes, I could tell when it was done.

X Q. 18. What means have you for fixing that date when it was done?

A. I have not any other means except through recollec-
141 tion of those names being painted out in a certain manner and re-lettered; because those names at that time were daubed with white and the letterer blocked them in with black as he went along painting the white over the old lettering; in fact, the white spots were not painted at that time in the same manner, they were when we re-painted the buildings in 1894. They were simply, the name was painted in, in white blotches representing the new name, and cut in with black as we went on from one scaffold stretched to another.

X Q. 19. My question is, how are you able to fix the date when that was done and you have not any books or records, have you, that would give you the date?

A No, I haven't any book that I can refer to unless it might be found in an old desk of the Herring-Hall-Marvin Co. I haven't taken anything with me that didn't belong to me that was with that Company when I left there; but it might have been found in the old records of the Company.

X Q. 20. Did you make a record of the time when those signs were changed?

A. The time was kept by me, and vouchers signed as to the amount paid for the work.

X Q. 21. Do you mean to say you cannot tell us to what person it was paid?

A. No, I cannot recall that; been trying to think of it for some time.

X Q. 22. You have not seen any vouchers?

A. Not lately, no.

X Q. 23. You have not seen any books, have you?

A. No.

X Q. 24. Then you are simply depending on your general recollection and memory for the time?

A. Yes—sure.

X Q. 25. When do you say it was that the signs the Hall's Safe & Lock Company were painted out and the Herring-Hall-Marvin Company painted in?

A. In 1892—fall of '92.

X Q. 26. Why do you say it was in the fall of 1892?

A. Because I am positive of that fact because all names were changed as far as it was possible, right immediately after the consolidation of those various firms. We had an order to change the names as quick as possible, as soon as we could do it.

X Q. 27. Who gave you that order?

A. That was a general order issued from the Superintendent of the Company, Mr. Hall himself?

142 X Q. 28. What Mr. Hall?

A. The President, Mr. E. C. Hall.

X Q. 29. Then you say that in the fall of '92 the signs Hall's Safe & Lock Comapny were painted out, and the sign of Herring-Hall-Marvin Company substituted; is that so?

—. ——.

X Q. 30. Do you know whether all of the signs Hall's Safe & Lock Company were painted out on all of the buildings?

A. Well, they were all painted out as far as I could tell, as far — I could find, because I made an effort to find all the names that were on the buildings to be painted out; in fact that was the order to do, and I tried to do it as far as I could see.

X Q. 31. Then in the spring of 1894 the sign Herring-Hall-Marvin Company was painted out, was it?

A. It was painted out together with the painting of the building. We re-painted the buildings, all the buildings were re-painted, all those spots.

X Q. 32. Then there was no sign there from the spring of 1894 till Mr. Winder put up the sign "Hall's Safe & Lock Works;" is that it?

A. That is the idea; it was a long time between the time we lettered them and re-painted them.

X Q. 33. Then it is your understanding that between the spring of 1894, and June, 1895, there was no signs on those buildings at all?

A. Nothing only what we put on around the corner posts, around the corners in numbering, putting on some numbers.

X Q. 34. What did you put around the corner—numbers?

A. Just the number of the building.

X Q. 35. But no signs with the name?

A. No names that I can recollect.

X Q 36. How do you fix the time as the spring of 1894 when the sign Herring-Hall-Marvin Company was painted out?

A. Why, that is an incident that is very easily recalled to mind, I being called to New York on business for the Company in January, 1894, first part of the year, to adjust some matters in the various painting departments there; and on my return, why, the Company came to the conclusion that the buildings would be painted.

X Q. 37. Did they give you any directions about painting any signs?

143 A. Not at that time; in fact, I hadn't any particular orders as to any sign work excepting to make the white spots as far as possible where I thought it was a proper place to get ads in, in good proper shape. We filled in some very large spots of white to put the new names on.

X Q. 38. When you painted the buildings in the spring of 1894, did you have any directions about what signs were to be put up?

A. No, not in particular, except as to picking out conspicuous places where we could put these signs at.

X Q. 39. But you said you didn't put any signs at all there in 1894?

A. Only the spots preparatory to putting signs on.

X Q. 40. Did you know what signs were to be put there?

A. Didn't know exactly what signs to put on, only to get ready for signs.

X Q. 41. For what signs, of Hall's Safe & Lock Works?

A. I didn't know anything about Hall's Safe & Lock Works at that time.

X Q. 42. Was that the sign you were to get ready for, "Hall's Safe & Lock Works?"

A. I didn't know anything about what sign, except spots for signs.

X Q. 43. Whether it was to be "Hall's Safe & Lock Works," or Herring-Hall-Marvin Company," you didn't know?

A. Didn't know; it was imaginary to me; I might have imagined it was going to be some sign on, but I didn't know it.

X Q. 44. No sign was in fact put on there?

A. Not for the time being.

X Q. 45. Till Mr. Winder put it on?

A. Till I had orders to tell him what to put on.

X Q. 46. Who gave you those orders?

A. W. H. Hall.

X Q. 47. He told you to have those signs painted "Hall's Safe & Lock Works?"

A. He told me what names to put on at that time.

X Q. 48. You did put on "Hall's Safe & Lock Works," didn't you?

A. Hall's Safe & Lock Works.

X Q. 49. Prior to the consolidation in 1892 what name was put on the safes?

A. Hall's Safe & Lock Company.

144 X Q. 50. Manufactured by Hall's Safe & Lock Company?

A. No, sir.

X Q. 5-. Just "Hall's Safe & Lock Company?"

A. Yes, Hall's Safe & Lock Company.

X Q. 52. What other names were put on?

A Dealers' names, men who had the safes consigned to them, had their names placed on them.

X Q. 53. Do you remember that the words "Hall's Standard Safe" were put on?

A. Yes.

X Q. 54. Where was that put on?

A. That was put on the backs of the safes—back part of the safes.

X Q. 55. Then on the front of the safe was put the words "Hall's Safe & Lock Company?"

A. Yes, sir.

X Q. 56. On the back of the safe was put "Hall's Standard Safes?"

A. Yes, sir.

X Q. 57. And that continued up to the time of the consolidation?

A. Up to that time.

X Q. 58. And was that put on by hand, or by decalcomania?

A. That was put on by decalcomania.

X Q. 59. After the consolidation you say that you put on the words "Herring-Hall-Marvin Company" on the safes?

A. Yes, sir.

X Q. 60. Those that were on hand already marked were sold with the name "Hall's Safe & Lock Company," and "Hall's Standard Safes," were they?

A. Some few there were, yes. There were some in stock finished up were shipped out in a hurry, could not wait for changes, why they were shipped out without the changes.

X Q. 61. Have you any record of any that were changed?

A. Got no particular record.

X Q. 62. Were any of the safes that were on hand at the time of the consolidation changed in the lettering?

A. There were.

X Q. 63. Those that had been already lettered were changed?

145 A. All those that went East in that particular time, those that went there as consignments to Eastern stores, or Eastern consumers, were all changed immediately, because we didn't allow anything to go East from Cincinnati without the words, "Herring-Hall-Marvin Company," placed on them.

X Q. 64. But those that were sold in the West, they were not changed?

A. Well, not all either; just those that were in an immediate hurry, those that had to be shipped at once, telegraph orders or things of that kind within a week or two, or three, after the consolidation, why, they were shipped out. Those that we could not reach to make the changes quick enough.

X Q. 65. How long were the safes labeled "Herring-Hall-Marvin Company"?

A. They were labeled Herring-Hall-Marvin Company from the time of the first issue of orders of 1892 till about 1895 somewhere in 1895—fall of '95, somewhere along in there, my recollection, my nearest recollection.

X Q. 66. Then what was put on them?

A. The Hall's Safe & Lock Works.

X Q. 67. Then in 1895, the name on the safes were all "Hall's Safe & Lock Works," and the name on the building was "Hall's Safe & Lock Works," was it?

A. Yes, sir.

X Q. 68. And that continued so till you left the Company?

A. Yes, sir.

X Q. 69. What did you understand by the name "Hall's Safe & Lock Works"?

A. Well it simply represented, as I understood it, one of the various firms concerned in the consolidation.

X Q. 70. Which firm?

A. The Hall's Safe & Lock Company, the Herring Company, the Marvin Company, Farrell, Myers & Smith, and so forth.

X Q. 71. What firm did the words "Hall's Safe & Lock Works" represent?

A. Why, it represented the old Hall's Safe & Lock Company, I suppose.

X Q. 72. That was a good way to designate the old Hall's Safe & Lock Company, wasn't it?

A. Well, I suppose that each one of those Companies carried their own make in order to produce the effect as to those who had a great reputation, to make quicker sales and more work.

146 X Q. 73. And Hall's Safe & Lock Company had a great reputation, didn't it?

A. It had.

X Q. 74. It was known as the Hall's Safe & Lock Works, wasn't it—the plant?

A. In that time it was, after ninety-five. Before that it was the Hall's Safe & Lock Company—after Herring-Hall-Marvin Company?

X Q. 75. You understood that they used the label "Hall's Safe & Lock Works" in order to get the benefit of the reputation of the Hall's Safe & Lock Company?

A. I didn't know that; that is a supposition of mine, because I knew, why, that the other concerns were doing the same thing; in fact, I know it. They were representing their reputation the same as the Hall's Safe & Lock Company were representing theirs in their own way.

X Q. 76. You knew enough about the business to know that if they would label their safes "Hall's Safe & Lock Works" they would get the benefit of the reputation of the old Hall's Safe & Lock Company?

A. Well, I don't say that I could know that, because——

X Q. 77. That is your understanding, isn't it?

A. I should surmise that that was what it was done for, but I didn't know.

X Q. 78. But from 1895 till you left the Company their signs and labels on the safes and advertisements were "Hall's Safe & Lock Works," were they?

A. Yes, sir.

X Q. 79. And that designation was very prominently and conspicuously displayed, wasn't it?

A. Yes.

X Q. 80. All safes were so marked?

A. They were marked "Hall's Safe & Lock Works, Cincinnati."

X Q. 81. And were the backs of them marked "Hall's Standard Safes?"

A. They may have been; that is beyond my recollection just now; they may have been for a time as far as those various names lasted; but we run out of them and we was not—we never as I know of made any order for that particular name.

X Q. 82. "Hall's Standard Safes" was a well-known term, wasn't it?

A. As far as they could see it from the back of a safe. It was never put on the front of a safe.

147 X Q. 83. But in the trade "Hall's Standard Safes" was well-known term, wasn't it?

A. No, not that I can say. I never heard the word used very often.

X Q. 84. Well you saw the word on the safes for years, did not you?

A. I could see that from the back of the safe; but it was never placed on the front in view.

X Q. 85. What did you understand by "Hall's Standard Safes"?

A. Nothing more than the safes made by Hall's Safe & Lock Company, Hall's Safe & Lock Works, and the Herring-Hall-Marvin Company in that time.

X Q. 86. Those safes had a great reputation, didn't they?

A. I guess they did from the number of them that were made.

X Q. 87. How did you come to leave the Herring-Hall-Marvin Company in May, 1897?

A. Well, that was by reason of the change, going to Hamilton.

X Q. 88. Yes. E. C. Hall and W. H. Hall asked you to go with them, did they?

A. No, sir, I made about as much of an application for the position as they made an effort to retain me for them, because I didn't care to go to Hamilton with the Herring-Hall-Marvin Company.

X Q. 89. You didn't want to remove to Hamilton?

A. No, sir.

X Q. 90. So you took a place with the Hall boys, did you?
A. Yes, sir.
X Q. 91. Did you paint their building?
A. Where?
X Q. 92. The building in which E. C. Hall and W. H. Hall started up business as Hall's Safe Company?
A. No, sir.
X Q. 93. Did you paint signs on that?
A. No, sir.
X Q. 94. Who did?
A. Could not say; they was already done when I came to the place.
X Q. 95. In May, 1897?
A. Yes, sir.
X Q. 96. They were running then, were they?
148 A. No—they were about getting ready to run.
X Q. 97. What signs did they have painted there?
A. Hall's Safe Company.
X Q. 98. In how many places?
A. Oh, about two or three places.
X Q. 99. Very conspicuous?
A. About as conspicuous as you could find the building adapted for a sign.
X Q. 100. You could see the signs from the railroads, cannot you, entering the city?
A. Yes, sir.
X Q. 101. What railroads?
A. B. & O.
X Q. 102. C. H. & D.?
A. You could hardly see it from there—well, a bright day you might see it.
X Q. 103. They have labeled all their safes "Hall's Safe Company," have they not?
A. "The Hall's Safe Company."
X Q. 104. "Cincinnati"?
A. "Cincinnati."

Redirect examination by Mr. COCHRAN:

R. D. Q. 1. You had nothing to do with the Company's advertising either Hall's Safe & Lock Company, or Herring-Hall-Marvin Co., did you?
A. No, sir.
R. D. Q. 2. Do you know anything about their advertising?
A. No. No, in fact I paid no attention to their office and clerical business.
R. D. Q. 3. You say that the labels "Hall's Standard Safes" were used till the stock on hand ran out, and then that no more were ordered; have you any idea how many were on hand at the time of the consolidation?
A. No, I could not hardly say how many; but as we considered it in a trade way, there was not many, because we turned out at that

time about forty or fifty, or sixty jobs a day; of course they were quickly consumed; and it might have been a week or two weeks, perhaps a month's stock on hand; I could not say; but we used them on everything on the back as far as they lasted.

R. D. Q. 4. Then you say they were not used, "Hall's Standard Safes," after that till you left the company?

149 A. Oh, they were used after the consolidation as I said, as far as it lasted. I could not say how long it lasted, but I know we didn't issue any more orders for new stock.

R. D. Q. 5. After they ran out, they were not used again while you remained with the company?

A. Not that I know of. We used some name that we used on the front for awhile in order to make good for some name on the back.

R. D. Q. 6. I will ask you if before 1895, you ever heard of such an expression as "Hall's Safe & Lock Works"?

A. No, I didn't.

R. D. Q. 7. Was it ever used on any buildings of the Hall's Safe & Lock Company?

A. Prior to ninety-five, no, sir.

R. D. Q. 8. What was the feeling among the men generally, Mr. Ebel, about moving to Hamilton, Ohio, employés of the Herring-Hall-Marvin Company?

A. Well, the feeling amongst the men was that if they could stay in Cincinnati they would not go to Hamilton.

R. D. Q. 9. Do you think that influenced any of them that went into the employ of the Hall's Safe Company?

A. Yes, sir.

R. D. Q. 10. Do you know of any other influences that were brought to bear upon them?

A. No, I don't; that was the general disposition of most of those that remained in Cincinnati. Those that went to Hamilton with the Herring-Hall-Marvin Company went there being compelled to go there in order to retain their position.

And further deponent saith not.

Signature of witness waived by agreement of the parties.

Whereupon the further taking of these depositions is by consent adjourned until 2:30 P M., Wednesday, Feb. 8, 1905.

At which time the further taking was resumed, the same parties being present, to-wit:

In accordance with agreement of the parties the deposition of the following witness Macbrair is taken at the office of the Macbrair Lithographing Co., S. E. Cor. 5th and Sycamore Streets, Cincinnati, Ohio, for convenience of access to the files and accounts of said witness Macbrair.

150 ALFRED W. MACBRAIR, of lawful age first being duly cautioned and sworn, was examined deposed and testified as follows, to-wit:

Direct examination by Mr. COCHRAN:

Q. 1. State your name, age, residence and occupation?

A. Alfred W. Macbrair; age forty-five; residence, Mount Auburn; occupation, Secretary-Treasurer Macbriar Lithographing Company.

Q. 2. How long have you been connected with the Macbrair Lithographing Company, and in what capacity?

A. I have been Secretary-Treasurer since we incorporated in 1885.

Q. 3. During that time have you had business dealings with the Hall's Safe & Lock Company, the Herring-Hall-Marvin Company and a concern known as the Hall's Safe & Lock Works, and the Herring-Hall-Marvin Safe Company of Hamilton, Ohio?

A. We have supplied lithographing to all these companies.

Q. 4. What is the nature of the lithographs you supplied them?

A. I think it has all been what we usually term stationery, letter-heads, note-heads, checks, envelopes.

Q. 5. Have you kept records of the various orders received from those companies, and the stationery delivered on those orders?

A. We have.

Q. 6. And were those entries made at the time of the delivery of each of the orders?

A. They were.

Q. 7. Please turn to your records and state what were the last orders of the various kinds of stationery furnished by you received from the Hall's Safe & Lock Company; and the amount of the orders?

A. The last work that was charged to the Hall's Safe & Lock Company is June 14, 1892. That is for two thousand envelopes for Cincinnati.

Q. 8. Can you produce a sample of the envelopes delivered under this order?

A. I think I can; and if so, will mark and make it a part of this deposition as Defendants' Exhibit No. 220.

Q. 9. What was the last previous entry to this one delivered to the Hall's Safe & Lock Company?

A. The one previous to that is May 7, 1892; it was for bill-heads.

151 Q. 10. Dictate that entry on your book to the stenographer?

A. "Saturday, May 7, 1892, Hall's Safe & Lock Company, one-half ream No. 6 Bill-Heads padded; one-fourth ream No. 4 bill-heads."

Q. 11. Will you produce a copy of the bill-head referred to in the above order, and mark it as Defendants' Exhibit No. 221, and make it by reference a part of this your deposition?

A. I will.

Q. 12. What is your last delivery of letter-heads, illustrated letter-heads, to the Hall's Safe & Lock Company?

A. The entry on the book reads, "Wednesday, September 24, 1891, Hall's Safe & Lock Company, 20 Rms. letter-heads, ruled and padded; 10 Rms. note-heads, ruled and padded."

Q. 13. Please produce a sample of the letter-heads delivered under the above order, and mark it as Defendants' Exhibit No. 222, and make it by reference a part of this your deposition?

A. I am unable to do so, for reasons in memorandum marked Defendants' Exhibit No. 222.

Q. 14. Please give us the dates of the first orders filled by you for the Herring-Hall-Marvin Company?

A. The entry reads, "June 25, 1892, Herring-Hall-Marvin Co., 10 M envelopes for Cincinnati; 3 M envelopes for New York" and also entry, "July 15, 1892," charged to "Herring-Hall-Marvin Co., 2 Rms. No. 6 bill-heads, 1 Rm. No. 4 bill-heads, padded" and also entry, "August 26, 1892, Herring-Hall-Marvin Co., 10 Rms. note-heads; 5,000 cards;" also, entry "September 26, 1892, Herring-Hall-Marvin Company, 20 Rms. letter-heads."

Q. 15. In what respect did these envelopes, bill-heads, note-heads, and letter-heads differ from those furnished to the Hall's Safe & Lock Company?

A. They were practically the same with the exception of a change in the firm name.

Q. 16. Were there any changes made in the stones illustrating the buildings of the company; if so, what?

A. I do not remember of any change in the building from those we just previously furnished; of course in changing the firm name where it appeared on the building, we always changed it on the building also.

Q. 17. You may state whether the papers which I now hand you marked "Defendants' Exhibit- 223 and 224, are copies of the
152 note-heads, bill-heads, furnished under the orders you have just referred to?

A. This note-head, Exhibit 223, has our imprint on it, which would be pretty good evidence to a lithographer that it was one that we had made. I would say that they are copies of those we made.

Q. 18. Have you satisfied yourself by a comparison of the letters with the note-heads and bill-heads that you have preserved on file?

A. I have.

Q. 19. The dates you have assigned are the dates of delivery of the various orders referred to?

A They are.

Q. 20. Can you fix the dates when you received the orders for these various articles of stationery?

A. I could not.

Q. 21. Do you have an order-book?

A. We do.

Q. 22. Have you the order-book covering this period?

A. No, sir. We have never considered those of enough importance to keep.

Q. 23. How long in your judgment would it take to alter the stones so as to show new names upon the fronts of the buildings?

A. Ordinarily two or three days.

Q. 24. Will you look at the letter-head I now show you, and state whether or not the changes visible upon that letter-head were made by your company. I will mark said letter-head for reference as part hereof, Defendants' Exhibit 225?

A. I would say they were not.

Q. 25. I understand you to say that after these orders were received from the Herring-Hall-Marvin Company for various kinds of stationery, you filled no more orders with note-heads, bill-heads, letter-heads, or other stationery marked "Hall's Safe & Lock Company;" is that right?

A. Yes, sir.

Q. 26. Please turn to your books and state when you first furnished note-heads, bill-heads, letter-heads and envelopes, marked "Hall's Safe & Lock Works"?

A. On "June 25, 1895, Hall's Safe & Lock Works, 2 books checks." Do you want other entries?

Q. 27. Yes, go right along till you have picked up all the changes of stationery?

A. "July 9, 1895, Hall's Safe & Lock Works, 5 Rms.
153 letter-heads, 4 Rms. note-heads;" and then "July 19, 1895, 5,000 envelopes."

Q. 28. In what respect did these checks, bill-heads, note-heads, letter-heads and envelopes, differ from those you had been previously furnishing to the Herring-Hall-Marvin Co.?

A. They are practically the same, with the exception of the firm name.

Q. 29. How about the name on the front of the buildings illustrated?

A. On both the letter-head and on the buildings the name being changed from Herring-Hall-Marvin Company to "Hall's Safe & Lock Company."

Q. 30. Please look at Complainant's Exhibit No. 10, which I now show you; and state whether or not that is a copy of the letter-heads furnished by you under the order just mentioned?

A. It is.

Q. 31. Please state when the Herring-Hall-Marvin Company next ordered note-heads, letter-heads, envelopes, etc., in their own name after this change to "Hall's Safe & Lock Works"?

A. On January 7, 1897, a charge is made to the Herring-Hall-Marvin Company, 5,000 envelopes; and on "January 23, 1897, 2,000 envelopes, 2,000 letter-heads, 2,000 note-heads."

Q. 32. How did these note-heads, letter-heads, bill-heads, envelopes, differ if at all, from those previously ordered by the Herring-Hall-Marvin Company before the change to Hall's Safe & Lock Works?

A. The ones we previously made had "Principal Office, Cincinnati, factory Cincinnati, New York, Philadelphia"; while the late ones had in the circle on the left, "Principal Office and factory, Cin-

cinnati." Then in a panel below the circle, the ones we previously made had "Edward C. Hall, President, William H. Hall, Treasurer; Richard T. Pullen, Secretary"; whereas the last one had "Richard T. Pullen, Manager." Otherwise they seem to be the same.

Q. 33. Please look at Defendants' Exhibit No. 226, which I now offer and show you, and state whether or not this is a copy of the letter-heads furnished under the order you have just named?

A. It is.

Q. 34. Do the illustrations on any of the letter-heads furnished by you show any names upon the buildings?

A. They do not.

154 Q. 35. Please look at Complainant's Exhibit No. 38, which I now show you; and state when envelopes like that were furnished to the Herring-Hall-Marvin Safe Company?

A. August 27, 1901, we furnished 5,000.

Q. 36. Please refer to your books and tell when you first furnished envelopes and stationery to the Herring-Hall-Marvin Company similar to the Complainant's Exhibit No. 38?

A. On December 14, 1897, Herring-Hall-Marvin Company, 10,000 letter-heads; 10,000 envelopes.

Q. 37. Please examine Defendants' Exhibit No. 227, which I now offer and show you; and state whether or not that is a copy of the letter-heads furnished by you to the Herring-Hall-Marvin Company under the order just mentioned?

A. It is.

Q. 38. Please examine Defendants' Exhibit No. 228, which I now offer and show you; and state when and to whom you furnished letter-heads like the said Exhibit?

A. "June 14, 1898, 2,500 letter-heads, 2 printing;", all the work we did while in the hands of Receiver we charged to Herring-Hall-Marvin Company; that is, the bills were made out that way.

Q. 39. By whom were the bills paid?

A. They were paid by the Receivers George R. Gray and Wright D. Pownall.

Q. 40. After January, 1897, were any envelopes, letter-heads or other stationery in the name of Hall's Safe & Lock Works furnished to anybody?

A. Not that I know of.

Q. 41. Your books do not show any such delivery?

A. No, sir.

Q. 42. Please state when you furnished letter-heads to the Herring-Hall-Marvin Safe Company?

A. "February 28, 1901, Herring-Hall-Marvin Safe Company, 3,000 letter-heads."

Q. 43. Please produce a sample of the letter-heads furnished Herring-Hall-Marvin Company under the last order mentioned by you, and attach it or refer to it as part of your deposition, and mark it "Defendants' Exhibit No. 229."

A. I will do so.

Q. 44. Has the Herring-Hall-Marvin Safe Company made any changes in the character of the envelopes or letter-heads
155 ordered from your Company since the dates of the last two mentioned lots you have testified to?

A. No, sir.

Q. 45. Have they been ordering from you continuously since 1901?

A. Yes, sir.

Cross-examination by Mr. MAXWELL:

X Q. 1. Do you do the printing for Hall's Safe Company?

A. I don't think we have.

X Q. 2. Do you know the difference between Hall's Safe Company and the Hall's Safe & Lock Company?

A. Yes, I understand there is a Hall's Safe Company.

X Q. 3. Do you know the difference between that Company and the Hall's Safe & Lock Company?

A. I do not know that I do.

X Q. 4. In referring to the letter-heads printed by you for Herring-Hall-Marvin Company, Exhibits 224, and 226, you said that the signs on the building were changed from Hall's Safe & Lock Company and Hall's Safe & Lock Works to Herring-Hall-Marvin Company. I ask you to look at the picture on those letter-heads and to say whether or not the sign "Hall's Safe & Lock Company" did not also remain on the picture of the buildings as well as the sign "Herring-Hall-Marvin Company"?

A. In order to make changes on buildings of this character we have to engrave this name, the new name, polishing out the spaces in which it is placed where that becomes too small; so that it is impossible for a man to polish that out and change it. We don't make those changes; and evidently did not in this case.

X Q. 5. Then the fact is, that the sign "Hall's Safe & Lock Company" remained in this picture as well as the sign "Herring-Hall-Marvin Co.," did it not?

A. Where it was exceedingly small, it did.

X Q. 6. Did you make the changes?

A. Me personally? No, sir.

X Q. 7. Do you know why they were made?

A. They were made in accordance with orders.

X Q. 8. Then you left the words "Hall's Safe & Lock Company" on in accordance with orders, didn't you?

A. Probably did; probabilities are that we said at the time that this being so small, why, it could not be changed.

X Q. 9. Did you say so at the time?

A. I say, the probabilities.

156 X Q. 10. Why do you say the probabilities; how do you know that was so, or whether they told you to leave it "Hall's Safe & Lock Company"?

A. Of course I would not know that; no, I would not know that.

X Q. 11. You have samples among your files of printing that you have done for the Hall's Safe & Lock Company and its successors, have you not?

A. Yes, sir.

X Q. 12. Please look at and among your files of printed forms

of receipts, and state whether on the edge of that receipt is printed in large letters the following: "Hall's Safes are the best"?

A. It is.

X Q. 13. Please also state whether on the samples of numerous cards that you have here, this appears: "Hall's Safe & Lock Company, Manufacturer of Hall's Patent Safes"?

A. It does.

X Q. 14. Please state, on the form of envelope which I find on your files, whether the following appears: "Return in ten days to O. A. Cavan, dealer in Hall's Fire and burglar-proof safes"?

A. It does.

X Q. 15. Please state, on another sample of business cards, whether the following appears: "T. C. Williams, dealers in Hall's Fire and Burglar Proof Safes"?

A. It does.

Redirect examination by Mr. COCHRAN:

R. D. Q. 1. Mr. Macbrair, did you furnish any receipts, checks or business cards with the names "Hall's Safes are the Best" to anybody after June, 1892?

A. I do not see any on file.

R. D. Q. 2. There is no memorandum on your Exhibits of any orders received after that date?

A. No, sir.

R. D. Q. 3. Is there any entry on your books showing any deliveries of checks, receipts or cards with that title on?

A. Well, the books would not show whether that was on, or not.

R. D. Q. 4. Is it your custom to mark on your samples preserved in books the dates of goods ordered similar to the sample pasted in the book?

157 A. It is.

R. D. Q. 5. And you see no dates of any orders received after June, 1892?

A. I do not.

R. D. Q. 6. On any of the exhibits referred to by Mr. Maxwell?

A. No.

R. D. Q. 7. When you printed similar receipts, notes and checks for the Herring-Hall-Marvin Company, what was inserted in the place of the phrase "Hall's Safes are the Best" at the ends of those documents?

A. "Principal Office, Cincinnati, Ohio; factories, Cincinnati, New York, Philadelphia."

R. D. Q. 8. That is true of all the instruments to which Mr. Maxwell has referred, is it?

A. It is true of the notes.

R. D. Q. 9. Now look at the others and see?

A. The old engraving of the card seems to have been discarded, and a new engraving made on which that does not appear. This card of T. C. Williams seems to have been a special engraving which was only used for him, of which we made two lots, one in 1889, and one in 1890.

Recross-examination, by Mr. MAXWELL:

R. X Q. 1. Do you remember printing an advertisement in any form containing a picture of a safe, and a burglar discussing the Hall's Safes?

A. I remember something about that that we printed; just what form it was in, I don't remember now. The picture, however, is vivid in my mind of two burglars trying to get into a safe; when they found they could not get in one turned to his pal, and dropped his tools, and says, "Let's give up, Jim, it's a Hall."

Further redirect examination by Mr. COCHRAN:

R. D. Q. 10. When was this lithograph made by you?

A. It must have been as far back as around eighty.

R. D. Q. 11. Were any such lithographs ever ordered by the Herring-Hall-Marvin Company, or its successors?

A. No, sir.

And further deponent saith not.

Signature waived by agreement of parties.

These depositions not being concluded at this time, the further taking hereof by consent is now adjourned until 2:30 o'clock P. M., February 9, 1905.

158 Office of W. C. Cochran, Room 313, Johnston Bldg.

CINCINNATI, O., *Feb.* 9, 1905.

Met pursuant to adjournment at above time and place the same counsel being present, except Mr. Maxwell, who was represented by Mr. Lackner. Whereupon the depositions were resumed as below:

MAX PALM, of lawful age, being first duly cautioned and sworn, was examined, deposed and testified as follows, to-wit:

Direct examination by Mr. COCHRAN:

Q. 1. Please state your name, age, residence and occupation?

A. Max Palm; age about fifty-one; residence, 1030 Wesley Avenue, Cincinnati, Ohio; occupation, Treasurer of the Palm Bros. & Company, and the Palm Letter Company; they are both incorporated companies.

Q. 2. How long have you been connected with these Companies?

A. Since they organized, originated.

Q. 3. Give the date if you can?

A. Well, 1872—August, 1872, is the time they started in business.

(By Mr. LACKNER:)

Q. 4. Both Companies?

A. When the Letter Company started in, I do not really know; some time in the eighties, around there—eighty-two or around there.

(By Mr. COCHRAN:)

Q. 5. If these Companies, or either of them, had business dealings

with the Hall's Safe & Lock Company and Herring-Hall-Marvin Company, you may so state?

A. Yes, sir.

Q. 6. The concern known as the Hall's Safe & Lock Works?

A. Yes, sir.

Q. 7. And the Herring-Hall-Marvin Safe Company?

A. Yes, sir. We have orders in these books here that will show that. (Witness exhibits books to counsel.)

Q. 8. Did this Company keep records of the orders received and delivered in the course of its business?

A. Yes, both Palm Bros. & Co., also the Palm Letter Co., I have the records of each one.

Q. 9. Please state the last orders for names given by Hall's Safe & Lock Company to your firm?

A. January 13, 1892, 4,000 Hall's Safe & Lock Co. names. Entered on page 1, of the Book of 1888 to 1894, of the Palm Brothers Company.

159 Q. 10. Please state the first orders given you by the Herring-Hall-Marvin Company, and the date when the same were filled, and give specifications.

A. The first order was given May 17, 1892.

Q. 11. Please state the order, as it appears there?

A. "Herring-Hall-Marvin Company, May 17, 1892, 22,000 names assorted." Here are the samples. (Producing same.)

Mr. COCHRAN: I offer in evidence as part of the deposition of this witness samples produced by him, and ask to have them marked as Defendants' Exhibits Nos. 230, 231, 232, 233 and 234 inclusive.

The WITNESS: Also, on May 23, 1892; 10,000 small Herring-Hall-Marvin Company names, of which I produce a sample marked "Defendants' Exhibit No. 235, and make same by reference part hereof.

Q. 12. What was the next order received from Herring-Hall-Marvin Company?

A. For names, in November 18, 1892, 30,000 assorted names as per samples herewith, which I ask to have marked as Defendants' Exhibits 236, 237, 238, 239, 240 and 241, and made by reference part hereof.

Q. 13. I notice that in the samples you have produced of the names furnished May 17, order of May 17, 1892, the word "Hall" is slightly more prominent than the words "Herring" and "Marvin"; and that in the samples furnished in answer to the last question, the word "Hall" is reduced to the same size lettering as "Herring" and "Marvin." You may state whether or not any orders were received from Herring-Hall-Marvin Company after November, 1892, specifying extra size to the letters composing the word "Hall"?

A. Do you wish to know if any more orders were given?

Q. 14. Yes, with that distinction?

A. Well, the next year 1893.

Q. 15. Do you understand my question, if they got the word "Hall" bigger than the rest?

A. Oh, no. The first order was given with the word "Hall" large. That was given as I understand at the time Mr. Ed. Hall was President. After that they were made small.

Q. 16. Did you continue to furnish names to the Herring-Hall-Marvin Company from this time till June, 1895?

A. Till 1895? Yes, sir.

160 Q. 17. Did you get an order for any different kind of names after June, 1895; if so, state what?

A. In 1895?

Q. 18. Yes.

A. Then you wish to skip all the balance of this from that time down?

Q. 19. The point is, to get an order after June, 1895; if so, for what names?

A. In August 19, 1895, we got an order for eight thousand names of the Hall's Safe & Lock Works, Cincinnati, Ohio, Hall's Safe & Lock Works two thousand of each of the four styles; of which I attach a sample of each of the said styles marking them respectively, Defendants' Exhibits Nos. 242, 243, 244 and 245.

Q. 20. Did you receive any other order for names "Hall's Safe & Lock Works" after August, 1895?

A. No, sir, not of Hall's Safe & Lock Works.

Q. 21. What was the next order received by you from the Herring-Hall-Marvin Company after 1895?

A. We didn't get any further for nearly six years.

(By Mr. LACKNER:)

Q. 22. From the Herring-Hall-Marvin Company?

A. Yes, sir.

(By Mr. COCHRAN:)

Q. 23. What was the next order placed by the Herring-Hall-Marvin Safe Company with you?

A. October 18, 1901. This is the first order that we got for five or six years, October, 1901; and that was the Herring-Hall-Marvin Safe Company.

Q. 24. Read the order just as you have it on the book?

A. October 18, 1901, Herring-Hall-Marvin Safe Company, 7,500 assorted names; of which I attach samples made by reference part hereof, and marked as "Defendants' Exhibits Nos. 246, 247 and 248, respectively. Also 7,500 names of cities, New York, St. Louis, Hamilton, O., and San Francisco; samples of which are made by reference part hereof, and marked as Defendants' Exhibits Nos. 249, 250 and 251, respectively.

Q. 25. I notice that the name "Cincinnati" is not on any of the samples produced by you. Did you ever furnish the Herring-Hall-Marvin Safe Company with transfers of the name, "Cincinnati"?

A. No, sir.

Q. 26. Did you continue to furnish Herring-Hall-Marvin Safe Company with names after October, 1901, such as the samples produced by you?

161 A. Yes, sir; on November 7, 1901, 1,000 large names, Herring-Hall-Marvin Safe Company, as per sample marked as Defendants' Exhibit No. 252, made by reference part hereof; also, July 18, 1902, 7,500 3-assorted names, Herring-Hall-Marvin Safe Company.

(By Mr. LACKNER:)

Q. 27. Have you samples of those?

A. It is the same as the samples furnished under the order testified to of October 18, 1901.

Q. 28. I will ask you if you furnished Hall's Safe Company with transfers at any time; if so, when and what?

A. Hall's Safe Company, June 30, 1897?

Q. 29. Have you a sample of the transfer or name furnished to them?

A. No, sir; just the word "The Hall's Safe Company," but I can send you some if you wish them.

Q. 30. Yes, please produce copies of this name, and attach to your deposition, and mark same as Defendants' Exhibits Nos. 253, 254, 255 and 256, respectively, or make same part hereof by reference?

A. Yes, sir, I will; there are four styles.

Q. 31. Did you continue to furnish the Hall's Safe Company with transfers of their name?

A. Yes, sir. On January 6, 1898, 1,000 small name plates, "manufactured by Hall's Safe Company." I will furnish a sample and make it a part hereof, marked as "Defendants' Exhibit No. 257."

Q. 32. In the names furnished the Hall's Safe Company after the dates you have just given, was there any change in style?

A. That I could not answer, because I never paid attention to it whether it was "Hall's Safe Company" or "The Hall's Safe Company." The only way to do that is to prove it by getting the samples if you want them.

Q. 33. Do you know of any changes that were made?

A. No, sir.

Q. 34. Did your companies or either of them ever furnish to the Hall's Safe & Lock Company, or Herring-Hall-Marvin Company or to The Hall's Safe Company, or Herring-Hall-Marvin Safe Company transfers of the name "Hall's Safes"?

A. No, sir.

Q. 35. Did your Company or either of them ever furnish to either of the above named Companies transfers of the names "Hall's Standard Safes," or "Hall Standard Safes"; if so, when and to whom?

A. On August 4, 1904, we furnished to the Herring-Hall-
162 Marvin Safe Company, Hamilton, Ohio. There is only one firm of that name in Hamilton, Ohio.

(By Mr. LACKNER:)

Q. 36. Read the entry and the date of it; the date will fix whether it was the Herring-Hall-Marvin Co., or the Herring-Hall-Marvin Safe Company.

Well, that is a mistake here. I will take an oath that that urnished to the Herring-Hall-Marvin Safe Co. at Hamilton, there is only one form there at Hamilton; there is the trans- rnished them. I produce a sample of the transfer furnished this order, and will ask that it be marked as "Defendants' bit No. 258," and made by reference part hereof. 1,000 pieces ordered. On Jan. 26, 1905, 1,000 pieces of the "Hall's Stand- afe" were delivered to the Herring-Hall-Marvin Safe Company, lton, Ohio, as per sample produced and marked as Defendants' bit No. 259, and which is made by reference part hereof.

37. Prior to August 4, 1904, had your firm furnished to Her- Hall-Marvin Company, or the Herring-Hall-Marvin Safe Com- any such transfers as the last two that have been just offered in ice by you?

No, sir.

38. Or any transfers of the name "Hall Standard Safes," or 's Standard Safes"?

No, sir.

39. Have you furnished the Hall's Safe Company with any transfers?

Yes, sir, years ago.

40. Well, the Hall's Safe Company?

Oh, no, not the Hall's Safe Company.

41. Please describe for the Court the purpose and manner of these transfers, samples of which are offered in evidence?

The transfer takes the place of hand painting. The transfer ted with cement and put on an article that you wish to decorate. it on, rub it down well, wet the paper, and pull the paper off; eaves the lettering on the safe. It, therefore, takes the place of work at about one-third or one fourth of the cost, you might

42. The last sample you produced is not a transfer, is it?

Yes, sir, after it has been transferred on the paper.

43. How do you distinguish the transfers from the finished ?

A. Because the transfer before its transfer is reversed from a transfer that is transferred, and you have to read it back- wards.

44. Please look at plaintiff's Exhibit No. 31, which I now show nd state whether or not that was furnished by your Company? ding.)

Yes, sir, it was, and is identically the same as the transfer I exhibited here under Exhibit No. 242.

45. Do you think it would be possible for any one to mistake ame "The Hall's Safe Company," for the name, "The Herring- Marvin Company," or the name "The Herring-Hall-Marvin Company," when applied to safes?

There certainly would be a great difference.

46. I refer, of course, to the names produced by yourself?

Yes, sir.

Mr. LACKNER: I ask to have an objection noted to that.

Q. 47. In other words, I am limiting you in this last question to the names that you yourself produced; you do not know, of course, how carefully other people might imitate.

A. Whether one would take "Herring-Hall-Marvin" for the "Hall's"?

Q. 48. Yes, from your transfers?

A. You mean in the transfers here? Or do you mean as to the names?

Q. 49. The names as furnished by you?

A. I do not catch quite your idea, Mr. Cochran.

Q. 50. You have produced samples of transfers of the names, "The Herring-Hall-Marvin Company," "The Herring-Hall-Marvin Safe Company," and the name "The Hall's Safe Company." I ask whether in your judgment the name, "The Hall's Safe Company" as furnished by you could possibly be mistaken for the name the "Herring-Hall-Marvin Company," or the "Herring-Hall-Marvin Safe Company," as furnished by you?

A. Well, the "Hall's Safe Company" is entirely different name from the "Herring-Hall-Marvin Company." It is a different firm entirely.

Mr. LACKNER: I want to note an objection to all the foregoing questions and answers that call for the witness's opinion, upon the ground that he shows no qualification.

Q. 51. You have been in the business of making transfers of names, and so forth, for thirty odd years, have you not?

164 A. Yes, sir.

Q. 52. And studying resemblances and differences?

A. Well, partly, yes; there is a great difference in the different names, certainly. You might say there is no comparison between the two.

Q. 53. Have your Companies, or either of them, ever furnished to the Herring-Hall-Marvin Company, or the Herring-Hall-Marvin Safe Company, transfers of the name "Hall's Safe & Lock Company"?

A. No, sir.

Cross-examination by Mr. LACKNER:

X Q. 1. Mr. Palm, you are President and Treasurer of both the Palm Bros. Company, and the Palm Letter Company, are you?

A. I am Treasurer, yes—not President.

X Q. 2. Are you President of either of them?

A. No, sir, I am treasurer of both of them.

X Q. 3. Have both of these Companies their accounts in one set of books?

A. No, sir.

X Q. 4. The books that you have been referring to in your testimony are the books of what Company?

A. Some of the Palm Letter Company; some of the Palm Brothers' Company.

X Q. 5. Then are either of the sets of books of either of these Companies for the period for which you have testified complete?

A. They are.

X Q. 6. They are complete; you are sure of that, are you?

A. Quite sure.

X Q. 7. In other words, there are no books of the Palm Bros. Company for the period from 1892 up to the present time that are not here?

A. Well, that—we only have—yes, we have both of them; here is two for the Palm Brothers, and here is two for the Palm Letter Company.

X Q. 8. Then the books are complete for both Companies, are they?

A. Yes, sir, both companies.

X Q. 9. You have testified, Mr. Palm, that the last order received by your Companies from the Hall's Safe & Lock Company was dated January 13, 1892. When was that order filled?

165 A. Why, that must have been filled in about three months after—three or four months.

X Q. 10. Will you please produce a sample of the transfer filled under that order, and make it a part of your deposition, marking it as "Complainant's Exhibit XYZ"?

(Said sample produced and marked as above by witness is made by reference part hereof.)

X Q. 11. Your books show this to be the last order received from the Hall's Safe & Lock Company, do they?

A. As far as I can remember, and see here, unless I could go through the whole book. (Examines book furthere.) Was that the last order, did you say?

X Q. 12. I want to know whether that was the last order received from the Hall's Safe & Lock Company?

A. That was not the last order.

X Q. 13. I am talking about names?

A. I cannot tell by this whether it is a firm name, or not.

X Q. 14. What are you reading from now?

A. From the order-book, May 21, 1892, order received from the Hall's Safe & Lock Company for 5,000 No. 6 names.

X Q. 15. Will you produce a sample of the transfer under the order of May 21, 1892, that last one of the Hall's Safe & Lock Company?

A. Yes, sir.

(Same produced and marked as "Complainant's Exhibit XX," and made by reference part hereof.)

X Q. 16. Are you satisfied that that is the last order from the Hall's Safe & Lock Company? If you are not, I would like to have you be sure about it?

A. That is to the best of my knowledge.

X Q. 17. Well, from your examination made of your books, now, are you satisfied that this is the last order received by your Companies from the Hall's Safe & Lock Company?

A. Yes, sir, as far as I can see by the books here.

X Q. 18. Your books show the first order received from the Herring-Hall-Marvin Company to be May 17, 1892; please state the various subsequent orders received from that time till June 1895. You have testified to three of them; I want to know what others in addition to those three you received from May, 1892, to June, 1895?

A. According to the books here, all the orders were put under one heading, the Herring-Hall-Marvin Company, as well as the
166 Hall's Safe & Lock Company. On May 17, 1892, we have an order from Herring-Hall-Marvin Company. On May 21, 1892, we have one from Hall's Safe & Lock Company. On May 23, 1892, we have one from the Herring-Hall-Marvin Company.

X Q. 19. I want to have you see how many orders you received from May, 1892, to 1895, from the Herring-Hall-Marvin Company. You have testified to the receipt of three orders. I want to know how many there are in addition to that. I would like to have you say, "we received six orders for so many names," or "seven orders for so many names," or whatever it is.

A. There is one here April 5, 1893.

X Q. 20. For how many names?

A. There is four different styles, 14,625 names.

X Q. 21. Just follow it on up to 1895?

A. January 23, 1894, 10,000 names, Herring-Hall-Marvin Company names. September 25, 1894, 2,000 Herring-Hall-Marvin Company names. That is the last to 1895, January.

X Q. 22. Now you have testified that on August 18, 1895, you received an order for 8,000 names of the Hall's Safe & Lock Works. Just refer to that, Mr. Palm, and state from whom did you receive that order?

A. From the Hall's Safe & Lock Works; that is all I can say.

— Q. 23. Your books show that order to have been received from the Hall's Safe & Lock Works?

A. Yes, sir, here is a copy, eight thousand names, assorted, four different styles.

X Q. 24. Now from that time on did you receive any further orders for that name from any Company?

A. No, to the best of my knowledge, no, sir.

X Q. 25. From October 18, 1901, down to the present time you have given all orders for names received by you from the Herring-Hall-Marvin Safe Company, have you?

A. Yes, sir, to the best of my knowledge.

X Q. 26. With respect to the names furnished by your Company to the Hall's Safe Company, commencing Jan., 1898, concerning which you have testified, what Hall's Safe Company did you refer to?

A. Well, the Cincinnati Hall's Safe Company.

X Q. 27. Do you refer to the Hall's Safe Company located on Spring Grove Avenue, Cincinnati, Ohio?

A. Yes, sir.

167 X Q. 28. Mr. Palm, the only transfers that you have furnished the Hall's Safe Company, Cincinnati, Ohio, with have been transfers of the name "The Hall's Safe Company;" is that true?

A. I would have to get you the transfers as to the identical—I am to produce them. I don't know whether it is a Hall Safe Company, or Hall's Safe & Lock Company, or Hall's Safe Company. I could not swear to it till I look at the samples and I will furnish samples of them.

X Q. 29. I want to ask you one more question. Have your Companies received from the Herring-Hall-Marvin Company, or the Herring-Hall-Marvin Safe Company, any orders for names "Hall's Standard Safes," or "Hall's Safes," prior to August, 1904?

A. No, sir.

X Q. 30. You have said, no. I would like to have you be certain about that?

A. No, sir; we have two orders. One is "Hall's Safes," the other one "Hall," apostrophe "S," Standard Safes."

X Q. 31. You have received both of those orders from Hamilton, Ohio?

A. Yes, sir.

X Q. 32. Have you received from the Hall's Safe Company, Cincinnati, Ohio, at any time any orders for transfers of the names "Hall's Safes," or "Hall's Standard Safes?"

A. I don't know, I cannot tell you unless I would look up the books and look up the record.

X Q. 33. Can you make that examination now?

A. No, sir, I could not unless I would go over to the store and get out the transfers. I would have to have our shipping clerk who would know more about that than I would; and then I would not know, because he would have to look at the record the same as I would.

X Q. 34. Why do you think that Exhibit No. 31, which you have examined was made by your Company?

A. Because every firm cannot make as good a transfer as that.

X Q. 35. Are there any distinguishing marks on Exhibit 31, from which you could form an opinion?

A. Yes, sir, I would know in detail on the scroll-work. If any other firm has made this it would be alike, and still there would be a little defect in it. Another thing, they would not have made a transfer as good as this. That's a fact.

168 Redirect examination by Mr. COCHRAN:

R. D. Q. 1. Can you ascertain for me and state to the Examiner the dates of the deliveries of the transfers ordered May 17, 1892, by the Herring-Hall-Marvin Company, and the transfers ordered May 23, 1892, for Hall's Safe & Lock Company?

A. I cannot do that now, but I will get the deliveries and add to my answer when I have ascertained from the books at the store. (Witness later added to above answer the following: "I have looked up the matter of the deliveries, and find they were made in installments, as per memorandum attached marked defendants' Exhibit No. 260, D. A. B.")

R. D. Q. 2. This order for Herring-Hall-Marvin Company names delivered May 17, required entirely new work, didn't it by your Company?

A. Yes, sir.

R. D. Q. 3. And would that take longer to deliver then than the old Hall's Safe & Lock Company labels?

A. Oh, we would have to make new designs, any change, even take that apostrophe "s" of that "Hall's Standard Safes," the first name, "Hall's Standard Safe," we had the stones ready. Now when you put an apostrophe in there, they have to be spread apart, the word "Hall" from the word, "Standard," you have to put the "s" in there, to work that in there; it would take longer on that account.

R. D. Q. 4. Then the words "Hall's Safe & Lock Company" could have been furnished promptly, could they not?

A. After the very first delivery.

R. D. Q. 5. And the words "Herring-Hall-Marvin Company" would require a long time to prepare?

A. A long time to manufacture.

R. D. Q. 6. Can you state about how long?

A. That depends upon in what hurry you were wanting the goods. We would be able to duplicate an order in two weeks, while if we have to make a new name for the goods, made in Europe, it will take three and a half to four months.

Recross-examination by Mr. LACKNER:

R. D. Q. 1. What size order can you duplicate in two weeks, Mr. Palm?

169 A. That is they make the goods here; we have a factory up-stairs in our place there.

R. X Q. 2. What sized order—five thousand names?

A. Oh, yes.

R. X Q. 3. Can you give us the size of the order that you could duplicate in two weeks?

A. Well, it depends upon what kind of an order it was, or as to how many colors it requires; if it only required plain gold, we could furnish him 5,000 inside of two weeks.

R. X Q. 4. For instance, the names you have been testifying about, can you duplicate those in two weeks?

A. "Hall's Safe & Lock Works" can be produced in shorter time than "Herring-Hall-Marvin Company" on account of the Herring-Hall-Marvin Company having a blended shade; whereas the "Hall's Safe Works" would require red print, which is around the edge. The "Herring-Hall-Marvin Company" would require about six

prints, and one print would have to dry before you could put on the other one.

R. X Q. 5. Are your companies the sole manufacturers of these transfer names in Cincinnati?

A. In Cincinnati we are the only manufacturers, yes, sir.

R. X Q. 6. Are there any dealers in Cincinnati?

A. No, sir.

R. X Q. 7. Do you know Meyer Friedberger?

A. Yes.

R X Q. 8. Is he a dealer or furnisher of these——

A. He was an agent representing a Philadelphia house.

R. X Q. 9. Is he still located in Cincinnati?

A. He lives here, but he is not in that business; he has been out of that business for eight or ten years so far as I know. Since that he has supplied these tags; you remember several years ago where he got into furnishing so many hundred thousand tags, license tags, you remember.

And further deponent saith not.

Signature waived by consent of parties.

The taking of these depositions not being concluded at this time, by consent, further taking thereof is now adjourned until 2:00 P. M., Friday, February 17, 1905.

170 FRIDAY, *February* 17, 1905—2:00 o'clock p. m.

Met pursuant to adjournment, counsel for the parties being present as at the original hearing.

Mr. COCHRAN: I will offer in evidence on behalf of the defendants, certified copy of the will of Joseph L. Hall, deceased, and mark the same D'f'd'ts' Exhibit No. 261.

Also certified copy of the certificate of incorporation of Herring-Hall-Marvin Co., marked as D'f'd'ts' Exhibit No. 262.

Also printed copy of the charter and by-laws of Herring-Hall-Marvin Co., identified by Mr. Pullen, and known as D'f'd'ts' Exhibit No. 210.

Also certified copy of the proceedings for a dissolution of the Hall's Safe & Lock Company, Case No. 101,288 Hamilton Common Pleas Court, marked as D'f'd'ts' Exhibit No. 263.

Also certified copy of the articles of incorporation of the Hall's Safe Company; and attach to same, certificate of increase of capital stock; the said copy of articles and certificate, etc., being marked as D'f'd'ts' Exhibit No. 264.

Also certified copy of the articles of incorporation of Herring-Hall-Marvin Safe Co., same being marked as D'f'd'ts' Exhibit No. 265.

Also certified copy of the annual report of the officers of Herring-Hall-Marvin Safe Co., dated December 6, 1900, and marked as D'f'd'ts' Exhibit No. 266.

Also copy of annual report of the officers of Herring-Hall-Marvin Safe Co., dated February 25, 1904, marked as D'f'd'ts' Exhibit No. 267.

Thereupon the witness, WILLIAM H. HALL, of lawful age, being first duly cautioned and sworn, was examined, deposed and testified as follows, to-wit:

Direct examination by Mr. COCHRAN:

Q. 1. Please state your name, age, residence and occupation?

A. William H. Hall; age, forty-eight; residence, Glendale, Ohio, Vice-President and Treasurer of the Hall's Safe Company.

Q. 2. How long have you been connected with the Hall's Safe Company, and in what capacity?

A. Since its organization in 1896, and in the capacity of Vice-President and Treasurer.

Q. 3. How long have you been in the safe business altogether, Mr. Hall.

A. Since about 1874.

171 Q. 4. What experience have you had, and in what office?

A. I started in with the Hall's Safe & Lock Co., in the factory, lock room, cabinet shop, paint room, draughting department, shipping room, order desk, purchaser of material, and Vice-President up to 1892, at which time I was elected President. Since then I was Treasurer for the Herring-Hall-Marvin Co., and a director. After my resignation was accepted, together with my brothers we organized the Hall's Safe Company; and have been with them ever since.

Q. 5. How are you related to Joseph L. Hall, who was President of the Hall's Safe & Lock Co.?

A. I am a son.

Q. 6. When did Joseph L. Hall die?

A. In March, 1889.

Q Who became president of the Hall's Safe & Lock Co. after his death?

A. Edward C. Hall.

Q. 8. To what office were you elected after his death?

A. Vice President.

Q. 9. Were there any changes in these officers prior to May 1892?

A. No, sir.

Q. 10. Were you a director in the Hall's Safe & Lock Co.?

A. I was.

Q. 11. For how long?

A. I think it was four or five years before father's death—before 1889—possibly longer.

Q. 12. And continued to act as such?

A. And continued to act as such.

Q. 13. Until the company was dissolved?

A. Yes, sir; that is, until it was sold out.

Q. 14. You say you were elected President of Hall's Safe & Lock Company in 1892; do you remember the date or circumstance?

A. Yes, it was due to the selling out to the Herring-Hall-Marvin Co., or the promoters of the Herring-Hall-Marvin Co. Edward C. Hall was connected with the negotiations for the company, and I was elected on May 7, 1892.

Q. 15. Look at the paper which I now produce and mark as D'f'ts' Exhibit No. 268, and state what it is, if you know?

172 A. It is a copy of notice of directors' meeting. It is a copy of the minutes of the Hall's Safe & Lock Co.

Q. 16. Directors, or stockholders?

A. Directors.

Q. 17. What date?

A. The date of the meeting is May 7, 1892.

Q. 18. Have you examined that paper, and do you know it to be a correct copy of the minutes of that meeting? (Handing.)

A. I think it is a correct copy.

Q. 19. Were you present at that meeting?

A. I was.

Q. 20. Are the minutes correct to the best of your knowledge and belief?

A. Best of my knowledge and belief.

Mr. MAXWELL: I allow this copy to be received subject to the production by the witness of the original, which counsel for defendant admits is in the possession of the witness.

Q. 21. I will now ask you to examine the paper which I produce and mark as D'f'ts' Exhibit 269, and state what that is?

(Said exhibit received subject to the same objection and exception by counsel for complainant.)

A. That is a copy of the minutes of the stockholders' meeting of May 7, 1892.

Q. 22. You appear to have been elected President of Hall's Safe & Lock Co. at this meeting of the directors on May 7, 1892; how long did you serve?

A. I think it was until May 12, 1892.

Q. 23. Please look at the document which I now produce and mark D'f'ts' Exhibit No. 270, and state what that is?

A. Agreement between the Hall's Safe & Lock Co. and Jennings S. Cox and Anson G. P. Segur, as to the sale of the assets of the Hall's Safe & Lock Co.

Q. 24. Will you look at the signatures attached to that document, and state what they are?

A. Signatures attached are Jennings S. Cox, Anson G. P. Segur, Hall's Safe & Lock Co., W. H. Hall, President, W. C. Cochran, Secretary.

Q. 25. You may look at the document which I now produce and mark D'f'ts' Exhibit No. 271, and state if you know what that is?

A. That is a receipt from the Union Trust Company
173 of New York, by Edward King, President, for sundry instruments as stated in the list accompanying.

Q. 26. I notice that one of the documents receipted for by Mr. King is an agreement of William H. Hall with Herring-Hall-Marvin Co. for services; have you a copy of that agreement?

A. Yes, sir.

Q. 27. Is that it? (Handing.)

A. Yes, sir.

Mr. COCHRAN: I will offer a copy of the agreement in evidence, marked Dfdts. Exhibit No. 272.

Mr. MAXWELL: Please note that that is received subject to objection and production of the original for comparison as to its accuracy.

Mr. COCHRAN: Counsel for defendant states that the original, of which this is a correct copy, was deposited with the Union Trust Company, and by them delivered to the Herring-Hall-Marvin Co., and is therefore under the control of the complainant.

Mr. MAXWELL: I do not know whether that is so or not.

Q. 28. At the time you executed this agreement you were a stockholder in the Hall's Safe & Lock Co.?

A. Yes, sir.

Q. 29. How many shares did you hold?

A. Ten.

Q. 30. Have you made a memorandum of the total outstanding stock of the Hall's Safe & Lock Co., at the date of these documents which had been introduced in evidence?

A. As near as I can get it from the stock books, yes, sir.

Q. 31. Taken by yourself from the stock book?

A. Stock book.

Q. 32. What was the total outstanding stock of Hall's Safe & Lock Co. in May, 1892?

Mr. MAXWELL: That is received subject to the production of the original stock book, which witness admits is in his possession.

A. Thirty-five hundred and ninety-one shares.

(Said memorandum now offered in evidence by counsel for defendants over the above objection noted by Mr. Maxwell, and is marked Dfdts. Exhibit No. 273.)

Q. 33. How many shares did Charles O. Hall own in Hall's Safe & Lock Co. in May, 1892?

A. Ten.

174 Q. 34. How many shares did Edward C. Hall own?

A. Twenty-two.

Q. 35. How much did Richard T. Pullen own?

A. Richard T. Pullen did not own any.

Q. 36. How much did his wife own?

A. Anna M. Pullen, ten shares.

Q. 37. What experience, if you know, had Mr. Edward C. Hall in the safe business prior to May, 1892?

A. He started in the safe business about 1868; in fact, his whole life has been put in in the safe business. He was Vice-President up to the time father died for quite a while—that is in 1889; and after that he was President of the Hall's Safe & Lock Company up to May 7, 1892.

Q. 38. What experience has Charles O. Hall had in the safe business?

A. Charles O. started in the safe business about 1876, worked in the shop, the different business, office force, or in the office. He

went to Chicago as Manager for the Hall's Safe & Lock Company's branch there and stayed there some three, four or five years, and returned and took up his position in the office of the Hall's Safe & Lock Co., and also at that time was assistant Superintendent of the Hall's Safe & Lock Co. That is all prior to 1892 and up to that time.

Q. 39. Edward C. Hall and Charles O. Hall are brothers of yours?

A. Yes, sir.

Q. 40. What other business besides the safe business, if any, have you or Edward C. Hall, or Charles O. Hall, been engaged in during your lifetime?

A. Myself? I have never been at any other business. Edward C. has been in the safe business all his life; Charles O. was never in any other business up to 1892.

Q. 41. After 1892, did Charles O. engage in any other business?

A. He went with the Herring-Hall-Marvin Co., I think, stayed there until somewhere in the early part of 1896, and he left that employ.

Q. 42. What business did he engage in then?

A. In the bicycle sprocket business.

Q. 43. What became of that business?

A. It went by very materially.

Q. 44. How long was Mr. Hall engaged in it—Mr. Charles O. Hall?

A. I could not say the exact time. I should think it was two or three years altogether.

175 Q. 45. How did he come out of it?

A. With nothing left.

Q. 46. What has he been doing since?

A. Been working for the Hall's Safe Company.

Q. 47. Is he a stockholder in the Hall's Safe Company?

A. No, sir.

Q. 48. Has he any other means of livelihood that you know of?

A. No, sir.

Q. 49. What was you- position in the Herring-Hall-Marvin Co. after it was organized?

A. As Treasurer.

Q. 50. Any other position?

A. I did all the purchasing for the institution.

Q. 51. Were you on the Board of Directors?

A. I was on the Board of Directors.

Q. 52. How long did you continue to act as Treasurer of the company and as a director?

A. Up to June, 1895, as Treasurer, and as a director up to either January or February, some time, as a director, 1896.

Q. 53. Who was elected Treasurer in your place in June, 1895?

A. John H. Davis.

Q. 54. How long did Edward C. Hall continue to act as President of Herring-Hall-Marvin Co.?

A. Up to June, 1895.

Q. 55. Who was elected President in his place?

A. Mr. Richard Dymond of Cincinnati.

Q. 56. Were you present at the meeting of directors when these officers were changed?

A. Yes, sir.

Q. 57. What other change was made at that meeting, that you remember, about the management of the company?

A. The Executive Committee was virtually abolished. The by-laws were changed, whereby the business was to be divided into two separate and distinct managements. Mr. Marvin and Mr. Pownall were made Eastern managers, and E. C. Hall and Richard T. Pullen, Western managers.

Q. 58. What position did you hold after this June, 1895, meeting?

A. I was a director, and held no official position. I attended to the buying for the institution.

176 Q. 59. What change occurred in February, 1896, in the management of the Company?

A. In February, 1896, the Voting Trust virtually took possession of the company, and a new executive committee was appointed.

Q. 60. Consisting of whom?

A. Consisting of William Mosler and Moses Mosler, and a man by the name of Carpenter—I don't remember his initials—all officials or directors in the Mosler Safe Company.

Q. 61. How long after this did you tender your resignation as a director and employé of the company?

A. That is a question I answerd a little while ago, in saying I was not sure whether it was January or February, because certain of us were to make room for the Mosler crowd—that's about the size of it.

Q. 62. You resigned as a director then before you left the service of the company?

A. Yes, sir.

Q. 63. Have you copies of your letter of resignation as an employee of the company, and of its acceptance?

A. Yes, sir.

Q. 64. Have you the original acceptance?

A. I have.

Q. 65. Please examine the documents which I now produce and mark D'f'd's' Exhibits Nos. 274, 275 and 276; state what they are, if you know?

Mr. MAXWELL: They are received subject to comparison and verification.

The WITNESS: There is one dated June 16, 1896, which I am very sure is an exact copy of the letter I received from the Herring-Hall-Marvin Co., signed by John A. Shibley, Secretary. That is marked D'f'd's' Exhibit No. 274.

There is one under date of June 29, 1896, signed by myself, addressed to John A. Shibley, Secretary of the Herring-Hall-Marvin Co., wherein I tendered my resignation as an employee. I am very sure that is a copy of the letter I sent. It is marked D'f'd's' Exhibit 275.

Here is a letter dated July 2, 1896, addressed to myself, accepting my resignation to take effect on the first day of August, 1896, and

signed by C. S. Lake, Assistant Treasurer. I am very sure that is a copy of the letter I received. That is marked D'f'd'ts' Exhibit 276.

Q. 66. You may state to what contract Mr. Lake refers in
177 his correspondence, as the contract of May 4th?

A. It refers to contract of May 12, 1892, of which Defendants' Exhibit No. 272 is a copy.

Q. 67. Did you ever have any other contract with Herring-Hall-Marvin Co.?

A. No, sir.

Q. 68. Please examine the document which I now produce and mark as Defts. Exhibit No. 277, and state what that is?

A. It is dated April 20, 1892, preliminary prospectus of the organization-to-be of the Herring-Hall-Marvin Co.

Q. 69. Do you remember seeing that prior to the meeting of May 7, 1892?

A. Yes, sir.

Q. 70. Did that prospectus have some influence on your vote on that occasion to sell to the Herring-Hall-Marvin Co.?

A. Undoubtedly did.

Q. 71. Was it your intention, Mr. Hall, at the time this sale was made by Hall's Safe & Lock Co. to the Herring-Hall-Marvin Co., to retire from the safe business?

A. No, sir.

Q. 72. Did you, individually, enter into any other contract whatever at this time of the sale by the Hall Safe & Lock Co. to Herring-Hall-Marvin Co., except the one that you have produced in evidence?

A. My contract of employment? No, sir.

Q. 73. I will ask you to examine the document I now produce and mark Dfdts. Exhibit No. 278, and state what that is? (Handing.)

A. That is a copy of the minutes of a special meeting of the Board of Directors held May 31, 1892.

Q. 74. Board of Directors of what?

A. Of the Hall's Safe & Lock Co.

Q. 75. Who authenticates that copy?

A. Edward C. Hall, President, Richard T. Pullen, Secretary.

Q. 76. Was Richard T. Pullen the one who is acting President of the Herring-Hall-Marvin Safe Co.?

A. He is the one who is now President of the Herring-Hall-Marvin Safe Co.

Q. 77. Do you recognize both signatures as genuine?

A. Yes, sir.

Q. 78. Do you know that of your own knowledge to be a correct copy of the proceedings of that date?

A. I say it was.

178 (Above Dfdts. Exhibit 278, received subject to stipulation by Mr. Maxwell that original shall be produced for inspection and verification.)

Q. 79. I will ask you to examine the three papers which I now produce, and mark Dfdts. Exhibits 279 *and* 281, and state what they are?

A. The one dated June 7, 1892, is the copy of the minutes of a called meeting of the Board of Directors of the Hall's Safe & Lock Co. (Dfdts. Exhibit 279); the one dated September 20, 1892, is a copy of the minutes of a called meeting of the Board of Directors of the Hall's Safe & Lock Co. (Dfdts. Exhibit 280); the one dated August 16, 1894, is a copy of the minutes of a called meeting of the Board of Directors of Hall's Safe & Lock Co. (Dfdts. Exhibit 281).

Mr. MAXWELL: The foregoing copies are received subject to the production of the original minutes for inspection and verification of the copies.

Q. 80. How many dividends were declared and paid by the Herring-Hall-Marvin Co. to your knowledge?

A. There were six dividends of 2 per cent. paid to the preferred stock of Herring-Hall-Marvin Co., and one of 4 per cent. paid to the common stock of Herring-Hall-Marvin Co.

Q. 81. Was that the only dividend paid on common stock?

A. Yes, sir.

Q. 82. What was the value of the tangible assets of the Hall's Safe & Lock Co. turned over to Herring-Hall-Marvin Co. under this bill of sale of May, 1892?

(Objected to by counsel for complainant as immaterial.)

A. As per the inventory, etc.?

Q. 84. Yes, any way you know.

A. About a million and fifteen thousand and something.

Q. 85. What did the Hall's Safe & Lock Co., receive for those assets?

A. Seven hundred thousand cash and six hundred and fifty thousand in stock.

Q. 86. Please examine the document which I now produce and mark D'f'd'ts' Exhibit 282, and state what that is?

A. That is a printed copy of the balance sheet of Herring-Hall-Marvin Co., May 15, 1893, as sent out to the stockholders.

179 Mr. MAXWELL: That is objected to on the ground that it is irrelevant to the issues in this case.

Q. 87. Please examine the documents which I now produce and mark D'f'd'ts' Exhibits 283, 284, and state what they are?

(Same objection by counsel for complainant.)

A. Printed copy of the annual statement of the Herring-Hall-Marvin Co. from May 16, 1893, to April 30, 1894, as sent out to the stockholders, (D'f'd'ts' Exhibit 283); the one dated June 30, 1894, was a circular letter sent out by the President of the Herring-Hall-Marvin Co. to the stockholders at the time Exhibit 283 was sent (D'f'd'ts' Exhibit 284).

Q. 88. At the meeting of directors in June, 1895, at which the Western interests and Eastern interests of Herring-Hall-Marvin Co. were put under separate management, what, if anything, was said about the name in which the business should be conducted?

A. Mr. Marvin had a brother who had sold out to either The National Biscuit or the American Biscuit Company, and he had been talking to the different members of the Board for quite a while as to running the different factories under their old names, as near as they could within the law, to avoid being taken for what the public all thought the Herring-Hall-Marvin Co. was—a Trust—and he suggested, and it was taken up by the board that the factory at Cincinnati was to paint their names and run under the name of Hall's Safe & Lock Works; the Herring factory under the name of the Herring Safe Works; the Marvin factory under the name of the Marvin Safe Works.

Q. 89. What did you do in pursuance to that action of the Board of Directors?

A. We had the factory buildings lettered Hall's Safe & Lock Works. We changed our stationery to Hall's Safe and Lock Works from Herring-Hall-Marvin Co., as it had been before.

Q. 91. When was this change in the lettering made?

A. I think it was in the same month, June, 1895.

Q. 92. When were the changes in stationery made?

A. Just as soon as we could at that time, during that month and the following month.

Q. 93. Was the ordering of stationery part of your business as Treasurer of the Herring-Hall-Marvin Co.?

A. Yes, sir.

Q. 94. What stationery did you order after the Herring-Hall-Marvin Co. organized, in May, 1892?

180 A. Well, we ordered all Herring-Hall-Marvin Company's stationery with their name on it.

Q. 95. Did you use any stationery with the old name, Hall's Safe & Lock Co., on it?

A. Yes, we had about five thousand letter-heads, lithographed letter-heads with the name Hall's Safe & Lock Co. at the top, over the picture of the building. We had a line run through that and the name Herring-Hall-Marvin Co. printed just below the line on the picture.

Q. 96. I will ask you to look at Defendants' Exhibit No. 285, and state if you know what that is? (Handing).

A. Yes, sir; that is a letter-head of the old Hall's Safe & Lock Co. with the changes made as I have just mentioned. I also see another change here; under William H. Hall, where the word "Vice President" was, the word "Treasurer" is printed.

Q. 97. Did you use any of the old stationery of the Hall's Safe & Lock Co. without alterations?

A. There might possibly have been some of the old forms that were used between the branch houses and the factory. Of course those people all knew that we were the Herring-Hall-Marvin Co., and they knew what we were doing when we used up the old stationery.

Q. 98. I will ask you whether or not you at any time after the organization of Herring-Hall-Marvin Co. ordered any stationery,

bill-heads or order blanks, or anything of that sort, in the name of Hall's Safe & Lock Co.?

A. No, sir.

Q. 99. I will ask you whether after May, 1892, you ever inserted in any directory, city directory of Cincinnati, New York, Philadelphia, or otherwise, the name of Hall's Safe & Lock Co. as a company?

A. Not that I ever saw or heard of.

Q. 100. When did you first see in the Cincinnati Directory the name of Hall's Safe & Lock Co., after 1892?

A. Why, in the 1904 directory.

Q. 101. After the organization of the Herring-Hall-Marvin Co. did you do any advertising in the name of Hall's Safe & Lock Co.?

A. No, sir; we had no occasion to advertise.

Q. 102. Please examine D'f'd'ts' Exhibits 223, 224, and 226, and state what they are, if you know?

A. Defendants' Exhibit 223 is a note head of the Herring-Hall-Marvin Co. D'f'd'ts' Exhibit, 224 is a letter-head of the Herring-Hall-Marvin Co. D'f'd'ts' Exhibit, 226 is also letter-head of the Herring-Hall-Marvin Co.

181 Q. 103. What changes, if any, have been made in the lithographs used in those letter-heads?

A. In the circle on Defendants' Exhibit 224 we find the following words: "Principal office, Cincinnati. Factories, Cincinnati, New York and Philadelphia." On the scroll just below that we find "Edward C. Hall, President, William H. Hall, Treasurer, Richard T. Pullen, Secretary." On the circle in D'f'd'ts' Exhibit 226 the change has been made to read, "Principal office and factory, Cincinnati." On the scroll beneath the circle "Richard T. Pullen, Manager." The other two names have been left off. That is about the only change I see.

Q. 104. What about the names on the front of the buildings shown in the picture?

A. The names on the front of the buildings in both of D'f'd'ts' Exhibits 224 and 226 are Herring-Hall-Marvin Co. I don't see any change in those names.

Q. 105. Was stationery like D'f'd'ts' Exhibit 226 ordered at any time while you were connected with the Herring-Hall-Marvin Co.?

A. No, sir, that is as to the name, the single name of Richard T. Pullen being on the scroll under the circle.

Q. 106. I will ask you to look at D'f'd'ts' Exhibits 227 and 228, and state whether stationery like either of those was in use by the Herring-Hall-Marvin Co. while you were connected with it?

A. No, sir.

Mr. COCHRAN: I will offer in evidence, simply to show the style of letter-head used at various times by the Herring-Hall-Marvin Co., D'f'd'ts' Exhibits 286 to 309*a*, inclusive.

Q. 107. I will ask you to state, Mr. Hall, from an examination of these exhibits which are offered in evidence as above, when each

style of letter-head, note head, etc. was adopted, and how long it was used, if you know?

A. I should say Exhibit 286 was printed in June, 1892. D'f'd'ts' Exhibit 287 was printed in the ninth month, 1892; D'f'd'ts' Exhibit 288 was printed in the tenth month, 1892; Exhibit 289 was printed in the eighth month, 1894; Exhibit 290 was printed in the eighth month, 1904; Exhibit 291 was printed February, 1895; Exhibit 292 must have been printed before June 13, 1895; Exhibit 293 must have been printed before June 13, 1895; Exhibit 294 was printed, I think, the first month, 1894; Exhibit 295 was printed the first month, 1895; Exhibit 296 was printed the eighth month,
182 1895; Exhibit 297 was printed before December 21, 1896; Exhibit 298 was printed before December 24, 1896; Exhibit 299 was printed December, 1895; Exhibit 300 was printed prior to October 6, 1896; Exhibit 301 was printed prior to November 7, 1896; Exhibit 302 was printed likely in the fourth month, 1896; it was at any rate printed prior to January 29, 1897. Exhibit 303 was printed the eleventh month, 1896; Exhibit 304 was printed prior to December 15, 1896; Exhibit 305 was printed January 1, 1897, and in San Francisco; Exhibit 306 was printed February, 1897; Exhibit 307 was printed prior to May 8, 1897; Exhibit 308 was printed prior to May 27, 1897; Exhibit 309 was printed April 1897, in San Francisco. Now I am only speaking of this last, of the first part of 309, because a certain part of the letter has no date whereby I can identify it.

(Said sheet last referred to by witness is offered, marked as D'f'd'ts' Exhibit 309*a*.)

Q. 108. What enabled you to give the exact month of the year in which certain of those letter-heads were printed, whereas you were unable to give the exact month in other cases?

A. In some of the cases where I have specified the date as prior to a certain date, I have taken the date of the letter as a basis to go on. In those cases where I have specified the month without the day, the printer's marks show what month they were printed, the year.

Q. 109. State whether or not the printer's marks were fixed in ordinary cases of business stationery furnished you on your orders?

A. In most cases where it was ordinary printed matter.

Q. 110. I will ask you to examine D'f'd'ts' Exhibits 310 to 323, inclusive, and state, if you know, what they are and when they were furnished?

A. Exhibit No. 310 is a receipt blank for the salesroom outfit; that was printed prior, I am very sure, to the organization of the Herring-Hall-Marvin Co. No. 311 is a cancellation blank, used by the branches of the Herring-Hall-Marvin Co. for cancelling orders at the factory. That was printed June, 1892. Exhibit No. 312 is a consigned stock order blank used by the Herring-Hall-Marvin Co., and was printed June, 1892. Exhibit No. 313 is a memorandum of stock or bills for consigned stock of the Herring-Hall-Marvin Co. printed June, 1892. Exhibit No. 314 is one of the blanks used

by the collection department of the Herring-Hall-Marvin Co.,
183 printed June, 1892. Exhibit No. 315 is a remittance blank used by the Herring-Hall-Marvin Co. from their branches to the head office, and was printed June, 1892. Exhibit No. 316 is a jeweler order blank for time sales in the State of Tennessee, and was printed June, 1892. Exhibit No. 317 is an order blank of jewelers' safes for cash sales, and used in the State of Tennessee, and was printed June, 1892. No. 318 is a remittance notice used — Herring-Hall-Marvin Co. and printed June, 1892. No. 319 is a blank form of affidavit used by the Herring-Hall-Marvin Co. and printed June, 1892. No. 320 is a time lock order blank used by the Herring-Hall-Marvin Co. and printed seventh month, that is July, 1892. No. 321 is a rent order blank used by the Herring-Hall-Marvin Co. and printed July, 1892. Exhibit No. 322 is a combination blank for the duplex combination bank lock used by the Herring-Hall-Marvin Co. and was printed June, 1892. Exhibit 323 is a general instructions to salesmen blank, or you might say a printed letter used by the Herring-Hall-Marvin Co. in New York, and is dated June 1, 1892.

Q. 111. Do the exhibits just referred to by you constitute the whole of the blanks, circulars, etc. used in the business of the Herring-Hall-Marvin Co. in 1892?

A. No, sir.

Q. 112. How many different blanks did you have?

A. I think there was in the neighborhood of 150.

Q. 113. Are these all that you were able to produce?

A. Yes, sir.

Q. 114. You may state whether or not any other blanks used by the Herring-Hall-Marvin Co. at that time bore the name of the Hall's Safe & Lock Co.?

A. No, sir, none of them bore the name of the Hall's Safe & Lock Co.

Q. 115. Did you ever see any stationery or blanks of any sort during the time you were connected with the Herring-Hall-Marvin Co. in New York, and is dated June 1, — & Lock Co.?

A. That were printed after the Herring-Hall-Marvin Co.?

A. I never did.

Q. 116. I will ask you to look at Complainant's Exhibit 16 and state if you know what that is? (Handing.)

A. Yes.

Q. 117. State what it is.

A. It is a price list of the old Hall's Safe & Lock Co.

184 Q. 118. To what extent if at all, was that used by the Herring-Hall-Marvin Co.?

A. To my knowledge it was not used at all; that is, it wasn't used to my knowledge.

Q. 119. Where would that be used, if at all?

A. I think more than likely that would be used in California.

Q. 120. Did you see any of them used at all in Cincinnati or New York, or in the East?

A. No, sir.

Q. 121. Please examine Complainant's Exhibit No. 17, and state, if you know, what that is? (Handing.)

A. Yes, that is a catalogue of the old Hall's Safe & Lock Co. I think it was printed prior to 1889.

Q. 122. Do you remember whether there was any quantity of those on hand at the time the Herring-Hall-Marvin Co. was organized?

A. There must have been a great many on hand.

Q. 123. What was done with them, if you know?

A. Oh, I suppose they were used by the salesmen. A catalogue of this kind was never sent out for general distribution at all; it was used by the salesmen to show their goods and take their orders from.

Q. 124. When a salesman left your employ, what did he have to do with illustrated catalogues that were in his possession?

A. The supposition was that he returned them.

Q. 125. Was that a rule of the company?

A. That was one of the rules of the company.

Q. 126. Did the Herring-Hall-Marvin Co. print a catalogue similar to this illustrated catalogue Pl'ff's Exhibit 17; if so, when?

A. Do you mean with that kind of a binding?

Q. 127. Well, similar to that large illustrated catalogue?

A. Well, they never printed a catalogue at all with the name of Hall's Safe & Lock Co. on it.

Q. 128. When did they get out an illustrated catalogue for their general work?

A. I don't remember the catalogue being issued.

Q. 129. What was done with the order blanks, notices of remittances, and other forms of Hall's Safe & Lock Co., after the Herring-Hall-Marvin Co. took possession of their works?

A. The old order blanks? They were destroyed. Notices
185 of remittances were destroyed to a certain extent. Now the notices of remittances, to the best of my recollection a certain number of them were kept on hand for certain business that Hall's Safe & Lock Co. had finished up, and they were kept and sent to the people who got the safes, to close up Hall's Safe & Lock Company business; but the order blanks were destroyed without any doubt.

Q. 130. What effort, if any, was made to use the name Hall's Safe & Lock Co. in the business of the Herring-Hall-Marvin Co. while you were with them?

A. No effort at all.

Q. 131. Did you have charge of ordering the transfers used upon safes by the Hall's Safe & Lock Co., Herring-Hall-Marvin Co., etc.?

A. I did.

Q. 132. What transfers were ordered after the Herring-Hall-Marvin Co. was organized?

A. Herring-Hall-Marvin Co. transfers. They were city names, some dealers' names. As a matter of course there were flowers, pictures and corner pieces.

Q. 133. After you got transfers with the name Herring-Hall-Marvin Co. on them, for use, did you order any of Hall's Safe & Lock Co.?

A. No, sir.

Q. 134. I will ask you if you ever ordered any transfers with the name of the "Hall's Safes" or "Hall's Standard Safes" after the organization of the Herring-Hall-Marvin Co.?

A. We never ordered any "Hall's Safes" at all, either as Hall's Safe & Lock Co. or Herring-Hall-Marvin Co. After Herring-Hall-Marvin Co. took hold, we never ordered any "Hall's Standard Safes."

Q. 135. After you left the Herring-Hall-Marvin Co., have you seen their safes to any extent?

A. I have seen a few of them.

Q. 136. How are they marked?

A. Herring-Hall-Marvin Co.

Q. 137. How are the safes of the Herring-Hall-Marvin Safe Co. marked?

A. What few I have seen are marked Herring-Hall-Marvin Safe Co.

Q. 138. Did you ever see the name Hall's Safe & Lock Co., or "Hall's Safes" or "Hall's Standard Safes" on any of their product?

A. No, sir.

186 Q. 139. Please examine Defendants' Exhibits which I now produce and mark Nos. 324 to 335 inclusive, and state, if you know, what they are, and when they were ordered?

A. Defendants' Exhibit 324 is a daily statement blank from the branches; it was printed July, 1895, and used under that name of Hall's Safe & Lock Works. No. 325 is a fire-proof combination blank, printed July, 1895, in the name of Hall's Safe & Lock Works. No. 326 is a note-head used in the name of Hall's Safe & Lock Works, was printed the eighth month, 1895. No. 327 is a combination blank used for deposit box locks under the name of the Hall's Safe & Lock Works, and was printed the tenth month, 1895. No. 328, is a time order blank, with the name Hall's Safe & Lock Works, printed June, 1895. No. 329 is a jeweler sale order blank for time sales, in the name of Hall's Safe & Lock Works, and was printed June, 1895; No. 330 is an order blank used for No. 1 vault front and door, in the name of Hall's Safe & Lock Works, and was printed seventh month, 1895. No. 331 is a blank of the collection department, under the name of Hall's Safe & Lock Works and was printed January, 1896. No. 332 is a blank letter of notice of shipment, used in the name of Hall's Safe & Lock Works, and was printed third month, 1896. No. 333 is a blank of the collection department under the name of Hall's Safe & Lock Works and was printed in the fourth month, 1896. No. 334 is an order blank for purchase of goods in the name of Hall's Safe & Lock Works; was printed the fourth month, 1896. No. 335 is a time order blank, was printed in the twelfth month, 1896. That is also in the name of Hall's Safe & Lock Works.

Q. 140. Were any of the blanks using the name Hall's Safe & Lock Works used prior to July, 1895, to your knowledge?

A. They were printed in June, 1895. None were used prior to June.

Q. 141. What change, if any, was made on the signs on the build-

ings of the Hall's Safe & Lock Co. after Herring-Hall-Marvin Co. took possession?

A. The name Hall's Safe & Lock Co. was painted out, and the name Herring-Hall-Marvin Co. inserted on the buildings where the former name had been.

Q. 142. How soon after the organization of the Herring-Hall Marvin Co. was it done?

187 A. It was done immediately after the organization. Just how many days I could not say.

Q. 143. How long did the signs remain Herring-Hall-Marvin Co. on the buildings of Hall's Safe & Lock Co.?

A. They remained Herring-Hall-Marvin on the buildings until we repainted the buildings.

Q. 144. Can you state when that was?

A. In 1894.

Q. 145. What change, if any, was made in the names at that time?

A. The names were painted out.

Q. 146. Any other names painted in?

A. Not just then.

Q. 147. When was any other name painted in?

A. I think it was in June, 1895, latter part of June or first part of July.

Q. 148. What name was painted in then?

A. Hall's Safe & Lock Works.

Q. 149. What changes were made in the signs on your Burnet House store on Third Street, after the organization of the Herring-Hall-Marvin Co.?

A. The sign was taken to the factory, on which the name Hall's Safe & Lock Co. appears, and it was changed to Herring-Hall-Marvin Co.

Q. 150. Were any changes made in this sign afterwards?

A. I don't believe there was.

Q. 151. At the time of the organization of the Herring-Hall-Marvin Co., did Hall's Safe & Lock Co. have a store in New York City?

A. Yes, sir.

Q. 152. What was done with that store?

A. That store was abandoned.

Q. 153. What was done with the signs there on that store?

A. They were taken down.

Q. 154. Were they put up again anywhere else?

A. Not that I ever knew of.

Q. 155. What was the principal store of the Herring-Hall-Marvin Co. in New York City, while you were connected with the company?

A. Well, I don't remember where that big store was. We had the name Herring-Hall-Marvin clear across the side of it, somewhere on Broadway—Franklin and Broadway.

188 Q. 156. What signs were displayed on that store?

A. Herring-Hall-Marvin Co.

Q. 157. What signs inside of the store?

A. Herring-Hall-Marvin Co.

Q. 158. Did the name Hall's Safe & Lock Co. appear anywhere?

A. No, sir.

Q. 159. At the time of the organization of the Herring-Hall-Marvin Co., did the Hall's Safe & Lock Co. have a store in Philadelphia?

A. No; they had a dealer there.

Q. 160. Do you know what changes were made there?

A. With the Hall's Safe & Lock Co. dealer? Why, he was let out, or he got mad and went out.

Q. 161. What became of his store?

A. I guess it was closed.

Q. 162. Do you know what was done with the signs over that store?

A. No, I couldn't say positively.

Q. 163. To what extent are you acquainted with the stores of the Hall's Safe & Lock Co. in other cities, and the changes made after the organization of the Herring-Hall-Marvin Co.?

A. I don't believe outside of New York and Philadelphia I was at any of the branches after the Herring-Hall-Marvin Co. took hold, so I don't know of my own personal knowledge.

Q. 164. When did the Herring-Hall-Marvin Co. abandon the Cincinnati shops?

A. In the latter part of—well they were abandoning, and finally did abandon in the latter part of 1897.

Q. 165. Did they carry on any of their work in the Cincinnati shops after November, 1897?

A. No, sir.

Q. 166. Did they have any office in the City of Cincinnati after November, 1897?

A. No, sir.

Q. 167. Did the Receivers of the Herring-Hall-Marvin Co. have offices, or place of business in Cincinnati?

A. No, sir.

Q. 168. Did the Herring-Hall-Marvin Safe Company operate the old Hall's Safe & Lock Works in Cincinnati at any time?

A. Oh, no.

Q. 169. Did they have an office in Cincinnati at any time?

189 A. Not until Mr. Pullen opened this office in the First National Bank Building last year, 1904.

Q. 170. Do you remember what month?

A. About the middle of the summer, August, somewhere around there.

Q. 171. Have you seen the factory operated by Herring-Hall-Marvin Co. and Herring-Hall-Marvin Safe Co., in Hamilton, Ohio?

A. I have seen the outside of it.

Q. 172. Did you ever see the name Hall Safe & Lock Co., or Hall's Safe & Lock Works, on that factory?

A. No, sir.

Q. 173. Do you know whether it was there or not?

A. I heard Mr. Pullen say it was not. I have never seen it there.

Q. 174. Have you seen the name painted on the windows of their office in the First National Bank Building?

A. Yes, sir.

Q. 175. Have they got the name Hall's Safe & Lock Co. there?
A. Yes, sir.
Q. 176. How big is it?
A. Well, I should judge the letters were fully six inches high.
Q. 177. As compared with the name Herring-Hall-Marvin Safe Co., how large are the letters?
A. It appeared to me to be about half again as large. I am speaking now of the inside windows facing the elevator.
Q. 178. They have no signs on the outside of the building?
A. I don't know.
Q. 179. Did you have charge of the advertising of the Herring-Hall-Marvin Co. while you were Treasurer?
A. I had charge of the printing.
Q. 180. How about the advertising?
A. Advertising? There was virtually none done.
Q. 181. Please examine plaintiff's Exhibits No. 20 and 21, and state what they are, if you know, and what use was made of them, and when they were printed?
A. Exhibit No. 20 is what we call a four-page circular. It is used for sending out in the mail to prospective customers, for them to select the size and style of safe they want to purchase. . Plaintiff's Exhibit 21 is the same kind of a blank.
Q. 182. Can you tell where those were printed?
190 A. No. 21, I should judge was printed prior to June, 1895; No. 20 must have been printed after June, 1895. I don't see any dates on either one of them.
Q. 183. The cut of the buildings on each of those circulars is the same, is it not?
A. I should say it was the same cut.
Q. 184. Mr. Hall, can you state why the Hall's Safe & Lock Co. appears on the front of the buildings illustrated in the cuts on these circulars?
A. These circulars are printed from electrotypes, and those were the electrotypes that the Hall's Safe & Lock Co. had on hand when the Herring-Hall-Marvin took hold.
Q. 185. Why were those not changed?
A. We could not very well change them without spoiling the cut to a large extent. Either had to change the woodcut or mar the electrotype, and in changing the woodcut you can readily find out or see where the change is made.
Q. 186. Were there any changes made in any of the other cuts, pictures of safes, etc., in those circulars; if so what?
A. Yes, on Exhibit 20 the cuts on the second page and on the fourth page show the names on the face of the safe changed from Hall's Safe & Lock Co., as shown on Exhibit No. 21, to Hall's Safe & Lock Works.
Q. 187. After the organization of the Hall's Safe Company, what lettering was put upon the product of that company?
A. "The Hall's Safe Company" and "Cincinnati"; or if it was sold to a dealer, the dealer's name with his city or town was put on the safe.

Q. 188. Was any such names as "Hall's Safe," "Hall's Standard Safes," or "Hall's Safe or Lock Works" put on any of the product of the Hall's Safe Company?

A. No, sir.

Q. 189. At any time?

A. At no time.

Q. 190. How has your name appeared in the Cincinnati Directory and the New York Directory?

A. The Hall's Safe Company, Spring Grove Avenue.

Q. 191. Have you done any advertising for the Hall's Safe Company?

A. We have circularized.

Q. 192. What name was used on the circulars?

A. Hall's Safe Company.

191 Q. 193. Have you done any advertising in periodicals or newspapers?

A. Yes, we have advertised in the "American Banker" and in Expert Edition of the "Scientific American," and in the "American Made Goods," the "Hall's Safe Co."

Mr. MAXWELL: I object to this statement about these advertisements, and would like to have the advertisements themselves produced.

Q. 194. I call your attention to plaintiff's Exhibit No. 4, and ask you to state who is responsible for that advertisement, and all you know about it?

A. I don't know who is responsible for it, but I do know that we are not. I presume it was Kinsey, Ranier & Thomson.

Q. 195. Did the Hall's Safe Company order that advertisement, or pay for it, directly or indirectly?

A. I never saw or knew anything about that advertisement till it was exhibited by the plaintiff. When I speak for myself, I mean the Company, so far as I know, we have never paid for it.

Q. 196. Please examine plaintiff's Exhibit No. 5, and state what you know about that? (handing).

A. I don't know anything about it. We never ordered it or paid for it.

Q. 197. Please examine plaintiff's Exhibit No. 6. (handing).

A. We never ordered that or paid for it.

Q. 198. Please examine plaintiff's Exhibit No. 7. (handing).

A. We never ordered that or paid for it.

Q. 199. What relation, if any, does the Kinsey, Ranier & Thomson Co. sustain to the Hall's Safe Company of Cincinnati?

A. They are dealers in our goods.

Q. 200. What do you mean by that?

A. They buy our goods, and sell them, we presume; they pay us for them.

Q. 201. What relation did Kinsey, Ranier & Thomson sustain to the Hall's Safe Company?

A. They bought our safes and sold them on their own account.

Q. 202. Who paid expense of carrying on their business, rents, advertising, etc.?

A. They did.

Q. 203. What relation does B. G. Hagstette, New Orleans, sustain to the Hall's Safe Company?

192 A. He buys our safes.

Q. 204. Has he any power to commit your company to expense?

A. No, sir, he has not.

Q. 205. What is the extent of his dealings with the company?

A. He buys our safes and pays for them.

Q. 206. I call your attention to plaintiff's Exhibit 23. State what, if anything, you know about that advertisement? (handing).

A. I know we neither ordered or paid for it.

Q. 207. I call your attention to plaintiff's Exhibit 24. State what, if anything, you know about that advertisement? (handing).

A. We neither ordered nor paid for it.

Q. 208. I call your attention to plaintiff's Exhibit 25. State what, if anything, you know about that? (handing).

A. We neither ordered nor paid for it.

Q. 209. What do you know about plaintiff's Exhibit 26? (handing).

A. We neither ordered nor paid for it.

Q. 210. What do you know about plaintiff's Exhibit 27? (handing).

A. We neither ordered nor paid for it.

Q. 211. When was your attention first called to these advertisements, these New York advertisements, of January and February, 1902, and how?

A. Mr. Cochran, I never saw those advertisements until they appeared in Mr. Maxwell's exhibit.

Q. 212. Did you hear of them before that?

A. Yes, I have heard that they were advertising at 393 Broadway.

Q. 213. Please examine plaintiff's Exhibits 39, 40, 41 and 42, and state, if you know, what they are or represent? (handing).

A. No. 39 appears to be a photograph of the Kinsey, Ranier & Thomson Co. store, 393 Broadway, New York City. No. 40 appears to be a very closely photographed copy of a portion of the window of the same store. No. 41 is a picture of a truck, with the sign Hall's Safe Company, 393 Broadway. No. 42 is a small poster, evidently used by the Kinsey, Ranier & Thomson Co. for the outside of safes for shipment after they were covered with burlaps, I should judge.

Q. 214. Does the Hall Safe Company own the truck shown in this picture, plaintiff's Exhibit 41?

193 A. The Hall's Safe Company does not own the truck.

Q. 215. Does it own or control the store in which Kinsey, Ranier & Thomson appear to be selling goods in these pictures?

A. It does not.

Q. 216. Does Hall's Safe Company furnish these posters that are being used, like plaintiff's Exhibit 42?

A. Hall's Safe Company does not.

Q. 217. Look at the exhibit which I now show you, and mark D'f'd'ts' Exhibit 336, and state what that is, if you know? (handing).

(Objected to by counsel for complainant as immaterial and irrelevant to the issues in this case.)

A. Defendants' Exhibit 336 is headed "The Herring-Hall-Marvin Co. 'Voting Trust Agreement.'"

Q. 218. What do you know about that?

A. This is I think the agreement entered into by a combination of the stockholders of the old Herring-Hall-Marvin Co. with the Voting Trustees, as to the management and running of the Herring-Hall-Marvin Co.

Q. 219. Were you asked to subscribe such an agreement?

A. Yes.

Q. 220. Did you do so?

A. Yes.

Q. 221. Look at the paper which I now offer in evidence, and mark D'f'd'ts' Exhibit 337, and state what that is? (handing).

(Objected to by counsel for complainant as to the memorandum upon said exhibit, because said memorandum is irrelevant.)

A. Defendants' Exhibit 337 is a printed circular issued by John H. Davis & Co. under date of January 20, 1896, to the stockholders of the Herring-Hall-Marvin Co.

Q. 222. Did you have a copy of that circular?

A. I think I did.

Q. 223. You may state what the memorandum is at the top of that Exhibit No. 337, and who put it there, if you know?

A. The memorandum at the top of this printed circular is as follows:

"Ed.—The 'N. Y. management' are utilizing the same tactics to obtain proxies they did before. The question of "selling goods" is relegated to the rear. The great thing now is proxies.

Q. 224. Please look at the paper I now show you and
194 offer in evidence as D'f'd'ts' Exhibit 338, and state what that is, if you know? (handing).

(Objected to by counsel for complainant as immaterial and irrelevant to the issues in this case.)

A. A printed circular by the Herring-Hall-Marvin Co. signed by John A. Shibley, Secretary, dated February, 18, 1896, and is a notice to stockholders for the purpose of considering and acting upon proposed amendments to certain sections of the by-laws of the company. The third page of the circular states the proposed amendments to the by-laws.

Q. 225. Did you attend that meeting of the stockholders?

A. I did not.

Q. 226. Were you at that time a director in the Herring-Hall-Marvin Co.?

A. I am in a quandary. I don't know whether it was just before

that, or just after that that I—I think it was just before that that I resigned.

Q. 227. Please look at the paper which I now show you and offer in evidence, marked D'f'd'ts' Exhibit 339, and state what that is, and what you know about it? (handing).

A. It is a printed notice marked "Special notice to dealers," under date of February 5, 1902.

Q. 228. What do you know about it, and what was done with it?

A. It was sent out to all the dealers where we understood they had been advertising in a certain way, and we wanted to call their attention to the fact that we would not countenance it in any way, shape or form.

Q. 229. Do you remember the occasion of getting out that circular?

A. Yes, sir. The occasion of getting out the circular was brought about by our issuing catalogues with the notice on the outside of "62 years, 1840 to 1902." And as soon as our attorney saw it—you called my particular attention to it—(addressing Mr. Cochran, counsel present) and told us that must be stopped at once and rectified as nearly as we knew how, we immediately got out the circular and sent it to all the dealers. At the same time we withdrew all the catalogues that we could, that we could get hold of.

Q. 230. Are the catalogues to which you referred in your last answer the same as the catalogues marked Pl'ff's Exhibit 18 and 19?

A. Yes, sir.

195 Q. 231. At the time your counsel's attention was called to those catalogues, did he tell you what advertising he had heard had been done in your name in the New York papers?

A. Yes, sir.

Q. 232. And did he tell you that that should be stopped?

A. Yes, sir.

Q. 233. Your circular was designated to stop that, was it?

A. Yes, sir.

Q. 234. Please look at the catalogue which I now show you and offer in evidence, marked D'f'd'ts' Exhibit 340, and state what that is, and when it was published? (Handing).

A. Defendants' Exhibit 340 is the same catalogue as Plaintiff's Exhibit No. 19, as that had been changed under instructions of our counsel. All of those catalogues we had on hand or could find, have been returned to us, and we had the old covers taken off and new ones put on, and the pages 47, 48, 51 and 52 cut from the catalogue and new pages printed to take their place, endeavoring at that time, to rectify the mistake that we had made.

And thereupon, the direct examination of the witness W. H. Hall as above not being completed at this time, by consent the further taking of these depositions is now adjourned until 10:00 A. M., Monday, February 20, 1905.

Office of W. C. Cochran, Johnston Bldg.

CINCINNATI, *Monday, February* 20, 1905.

Met pursuant to adjournment, same parties present.

Whereupon, the witness, W. H. HALL, resumed the stand, and his direct examination proceeded, by Mr. Cochran:

Q. 235. You heard Mr. Pullen's testimony in regard to certain resemblances between the cuts and so on in your catalogue of 1900, and the catalogues of the Hall's Safe & Lock Company and the Herring-Hall-Marvin Company. Will you please state in general terms the differences between the cuts used in your catalogue and those used in the other catalogues mentioned?

196 A. Well, as regards the catalogue of the Hall's Safe & Lock Company in comparison with other catalogues, these catalogues are used by their traveling men to show the different sizes of safes they have for sale. The catalogue of the Hall's Safe Company shows their style of safes, and their sizes, and their vault fronts; and as to comparisons with the Hall's Safe & Lock Company, while the size in a great many cases is similar, the cuts of the safe are very dissimilar.

In the ornamentation of the safes, the Hall's Safe & Lock Company used a very old style of painting and ornamenting, and show the old style of bolt work, and dovetails, traverse hinges. In fact, work pertaining to their particular line. While in the Hall's Safe Company catalogue we show a plain finish as is consistent with up to date painting.

Our chests are made with plain stepped edges, having no dovetails, and a different construction of hinge entirely. As to plan of cabinet work, that is merely a matter of choice, either with the safe men, or with the party ordering the goods. A great many of these plans, in fact the majority of them have been copies from plans sent in by parties purchasing safes; and as the plan was used in the safe, it was shown to be advantageous and continued by the safe men in that particular line. That is the gist of the difference or the similarity between catalogues as regards safes.

Q. 236. Referring to Hall's Safe & Lock Company catalogue, Plaintiff's Exhibit 17, and to defendants' Exhibit No. 202, state by reference to same as shown in the cuts what you mean by "dovetail?"

A. Dovetails as shown in Plaintiff's Exhibit No. 17, and Defendants' Exhibit No. 202, I refer to page 57 of Pl'ff's Exhibit 17, and to page 48 of Defendants' Exhibit 202, around the jeweler door on the inside will be seen dovetails on the door, fitting into corresponding dovetails on the jamb. That was one of the principal features of the old Hall's Safe & Lock Company in making their jeweler or burglar-proof or bankers' chest. On the chest shown on page 48, of Defendants' Exhibit 202, will be seen similar dovetails; and in fact all the way through the catalogue where bankers' chests are shown, or heavy inside doors or jewelers' styles of safes are represented.

Q. 237. They are the notched sections, are they?

A. They are the notched sections of plates of the door
197 jamb, a flange cut out in the shape of a dovetail, one fitting into the other.

Q. 238. You may state whether or not such dovetails are shown in the catalogues of the Hall's Safe Company?

A. The catalogues of the Hall's Safe Company were gotten up to show their own style of work, and they have made no dovetails in any of their work since they have been in existence; consequently, there would be no occasion to show them in the catalogue.

Q. 239. Please illustrate by turning to cuts in Plaintiff's Exhibits Nos. 18 and 19 the differences which you mention in the hinges, or bolt work?

A. In reference to Defendants' Exhibit No. 202, the best cut of the traverse hinge is on page 48, or one of the best cuts. This is merely a large lump hinge, with a hole for the pins so arranged and pin so arranged that the top part of the hinge will slide on the lower part towards the front of the safe, of sufficient depth or distance to allow the door of the box or safe to pull out straight and pass dovetails, and what is called the tenon and groove by swinging on the hinge proper. That is as near an explanation as can give you.

Q. 240. Are such hinges shown in the catalogue of the Hall's Safe Company?

A. The Hall's Safe Company has never used the traverse hinge. We have always considered it way out of date, and have used a crane hinge for all our boxes or all our safes, or heavy vault doors, where the door has to be pulled out straight for a distance before swinging on its hinges.

Q. 241. What differences are there between the lettering on safes sent out by the Herring-Hall-Marvin Safe Company and safes illustrated in the Hall's Safe Company catalogues?

A. The Herring-Hall-Marvin Safe Company used their own name, "The Herring-Hall-Marvin Company," which is transferred on to the safe; and that Hall's Safe Company use the Hall's Safe Company name which is also transferred on to a safe. As to a difference, there is no similarity at all.

Q. 242. Has the Hall's Safe Company tried in any way by lettering, ornamentation, or otherwise, to make their safes appear the product of the Herring-Hall-Marvin Company?

A. The Hall's Safe Company has advertised its own safes
198 entirely. The lettering of the old Hall's Safe & Lock Company was either a single or a double shaded letter, and the Hall's Safe Company has a plain gold letter without shading, and has tried to avoid any similarity in every way.

Q. 243. Please look at the pamphlet which I now show you and mark "Defendants' Exhibit No. 341," and state if you know what it is?

A. It is according to the reading, a catalogue of the Herring-Hall-Marvin Safe Company.

Q. 244. In what year was it issued?

A. 1902.

Q. 245. Please look through this catalogue and state whether any changes of importance appear in the ornamentation, the use of dovetails, and in the hinges to which you have referred as characteristic of the Herring-Hall-Marvin Safe Company's work?

A. As to the ornamentation of the safes, they appear to be the same with few exceptions as in the old Hall's Safe & Lock Company catalogue; and those few exceptions, such as No. 106, on page 5 of this Defendants' Exhibit No. 341, and No. 107 on page 6; No. 83*a*, and 183*a*, page 13. It appears that the Herring-Hall-Marvin Safe Company had copied considerably after our ornamentation. They are still using the dovetails and the traverse hinge in the 1902 catalogue, or Defendants' Exhibit 341, similar to those used in the Defendants' Exhibit No. 202 and plaintiff's Exhibit No. 17.

Q. 246. Look at the pamphlet which I now show you and offer in evidence marked "Defendants' Exhibit No. 342," and state if you know, what that is?

A. That appears to be a catalogue of the Herring-Hall-Marvin Safe Company.

Q. 247. Published when?

A. Published in 1904.

Q. 248. Please look through this catalogue and state what changes if any appear in the ornamentation of safes, the use of dovetails, and the use of traverse hinges, as illustrated by the cuts?

A. The ornamentation is changed very materially. As regard the safes, that is more in keeping with the Hall's Safe Company, except as to the name. They put the name Herring-Hall-Marvin Safe Company on their top bar in these cuts. The traverse hinge seems to have been eliminated from this catalogue and a
199 hinge adopted almost the facsimile, if not so, to the one used by the Hall's Safe Company since they have been manufacturing safes. As to dovetails, they seem to be taken out of the catalogue entirely with one exception. That is on page 38, marked "Car Safe."

Q. 249. Then in the matter of ornamentation, the use of dovetails in burglar-proof chests, and in the matter of hinges the last catalogue issued by the Herring-Hall-Marvin Safe Company resembles the catalogue of the Hall's Safe Company issued in 1900, more than it does previous catalogues of the Herring-Hall-Marvin Company or Hall's Safe & Lock Company; am I right?

A. You are right, yes, sir.

Q. 250. Mr. Hall, did the Hall's Safe & Lock Company ever have any design patents on their ornamentation, or their cabinet work, arrangement of cabinet work in safes?

A. No, sir.

Q. 251. Did they ever have any design patents on their vault front work?

A. No, sir.

Q. 252. Well, with vault fronts?

A. No, sir.

Q. 253. Turning to safe No. 317 in Plaintiff's Exhibit No. 18,

state whether there is anything unusual in that arrangement of partitions and pigeon-holes and drawers?

A. That is a common plan. I think that can be found in some of the other catalogues.

Q. 254. Please look at the pamphlet which I now offer in evidence, marked "Defendants' Exhibit No. 343"; and state what that is?

A. It is a catalogue of the National Safe & Lock Company, Cleveland, Ohio.

Q. 255. State whether you find in that catalogue any cuts or plans of cabinet work similar to safe No. 317 just referred to?

A. On page 22, of Defendants' Exhibit No. 343, you find a facsimile of that plan of cabinet work, same as illustrated on page 25. On page 34, there is the same arrangement in a wider safe, a larger safe.

Q. 256. Look at the pamphlet which I now offer in evidence and mark as "Defendants' Exhibit No. 344," and state what that is?

A. Descriptive catalogue of safes manufactured by Remington, Sherman Company.

200 Q. 257. How long have you had that catalogue in your possession?

A. I think I had this catalogue before 1896, when we organized our new Company.

Q. 258. You may state whether in that catalogue there are any cuts showing partitions, pigeon-holes, etc., similar to Defendants' Exhibit No. 317?

A. On page 22 is the cut of safe showing plan of cabinet work very similar except that it has a few more pigeon-holes. The same general plan, with pigeon-holes, book spaces, sub-treasury and three drawers.

Q. 259. You may state whether in your Remington & Sherman catalogue, (Defendants' Exhibit 344) you find vault fronts illustrated similar in style to those to which Mr. Pullen called attention in the Hall's Safe Company's catalogue?

A. On page 50, of Defendants' Exhibit No. 344, we find almost the same cut as on page 80 of Plaintiff's Exhibit No. 18; also, on page 82 of Plaintiff's Exhibit 18, and same on page 50 of Defendants' Exhibit No. 344; and on page 51 of defendants' Exhibit 344 you will find same style of front as illustrated on pages 84, 85, 86, 87, 88, 89 of Plaintiff's Exhibit No. 18. On page 54, of Defendants' Exhibit 344, we find the cut similar to pages 90, 91, 92, 93, 94 and 95, of Plaintiff's Exhibit No. 18. On page No. 52 of Defendants' Exhibit 344, we find similar cuts of vault fronts as shown on pages 96, 97, 98, 99, 100 and 101, in Plaintiff's Exhibit No. 18. I say all of these cuts are similar. They are with the exception of the hinges, and the way the hinge hangs, and the ornamentation, that is, the painting.

Q. 260. How long to your knowledge have these styles of vault front been in general use in the safe trade?

A. Mr. Cochran, the majority of those were in use before I started in the safe business. So I do not know how long they have been in. They are made by all safe makers to a certain extent, they are copies

from the finish in the rooms, such as the jambs around the doors, etc.

—. 261. Turning to page 100, of Plaintiff's Exhibit 17, vault front No. 8, state if you know how long that vault front was in use, and who first used it?

A. Well, the facing of this front as shown on page 100 of Plaintiff's Exhibit 17, is what *as* the old Hall's Safe & Lock Company used to call the Macneale & Urban pattern. So far as I know it was made by the Macneale & Urban Company at first and copies then
201 by most of the other safe people, and it was known as the Macneale & Urban pattern.

Q. 262. Please look at the pamphlet I now show you and offer in evidence marked as "Defendants' Exhibit No. 345," and state if you know what that is?

A. Yes, sir, that is an illustrated catalogue of Macneale & Urban, Cincinnati.

Q. 263. Have you any idea when that was published?

A. It must have been before 1889, when father died, I know, because they were in Hamilton at that time; just when they went to Hamilton I do not know; but it was in the eighties somewhere, I am very sure.

Q. 264. Please look through that catalogue and state whether there are illustrations of scroll work used in the cabinet work of safes similar to that used by Hall's Safe & Lock Company and the Herring-Hall-Marvin Company.

A. Every plan of cabinet work in the Macneale & Urban catalogue has scrolls more or less. On page showing Safe No. 21, page showing safe No. 25, page showing safe No. 27, page showing safes Nos. 28 and 29, they are all very elaborate scrolls.

Q. 265. Please state in this connection why the Herring-Hall-Marvin Company didn't publish a catalogue while you were in its employ?

A. Well, the old Hall's Safe & Lock Company catalogues as shown by Plaintiff's Exhibit No. 17, was what is considered a very fine catalogue, bound in leather, and they had a great many of them on hand; and this catalogue was not sent out for general distribution. For this purpose loose cuts were printed, showing the different styles of safes, and 4-page circulars; as these showed the general styles of safes as made in their Western factory, the men on the road carried these catalogues together with a supply of the loose cuts, there was really no need of issuing a new catalogue.

Q. 266. Referring to Plaintiff's Exhibits Nos. 18 and 19, state how you came to place the dates "1840 to 1900—60 years"—"1840 to 1902, 62 years," on the covers of those catalogues?

A. That was merely a matter of family pride.

Q. 267. What did you mean by those statements?

A. That my grandfather and father were in the safe business prior to ourselves, and they commenced about 1840; and as we were the third generation in the safe business, we felt a certain
202 pride in letting the public know that we were the third generation. It was with no intention of usurping anything be-

longing to any other Company; and as soon as we had our attention called to it, as I explained before, we endeavored to rectify it.

Q. 268. Does that explanation apply to the statements made on page 22 of Plaintiff's Exhibit No. 19?

A. Yes, sir.

Q. 269. Does that also apply to page 21 of Plaintiff's Exhibit No. 18?

A. It does.

Q. 270. What was the name of your grandfather?

A. Edward Hall.

Q. 271. And the name of your father?

A. Joseph L. Hall.

Q. 272. You say they were both engaged in the safe business?

A. Yes, sir.

Q. 273. I will ask you if there is connected with the management of the Herring-Hall-Marvin Safe Company any of the family of Joseph L. Hall, or Edward Hall?

A. There is not, by the name of Hall.

Q. 274. I will ask you if there is any one related to the Halls in any way connected with the Herring-Hall-Marvin Safe Company?

A. Richard T. Pullen is a son-in-law of Joseph L. Hall. Mr. Pullen is now President of the Herring-Hall-Marvin Safe Company.

Q. 275. Is he the only one?

A. He is the only one.

Q. 276. What experience has he had in the safe business.

A. Mr. Pullen began, I think, in 1874, with the Hall's Safe & Lock Company. He was afterwards Secretary of the Hall's Safe & Lock Company; he was one of the Executors of Joseph L. Hall's estate. He was Secretary of the Herring-Hall-Marvin Company. He was their Western Manager just before they moved to Hamilton. He was with the Receivers of the Herring-Hall-Marvin Company, and he is now with the Herring-Hall-Marvin Safe Company.

Q. 277. Prior to the organization of the Herring-Hall-Marvin Company, did Mr. Pullen have any practical experience in safe making or vault making, or designing?

A. No, sir, he was in the clerical force.

Q. 278. Do you know anyone connected with the Herring-
203 Hall-Marvin Safe Company who has any greater experience than Mr. Pullen, or longer experience in the safe business?

A. Among the managers? I don't know of anybody that has had anywheres near the experience that Mr. Pullen has had, and none of them any practical experience.

Q. 279. Has there anybody been connected with the Herring-Hall-Marvin Safe Company since its organization in the fall of 1900, that has had more experience than Mr. Pullen?

A. Do you mean as a manager?

Q. 280. Practical experience in the safe business?

A. Why, Mr. Cory, their Superintendent, he has been connected with the safe business in a practical way for years, but he has been out of their employ for two or three years, I could not say which.

Q. 281. Well, is there anyone else that has been connected with the management since, 1900?

A. No one that I know of.

Q. 282. When the Herring-Hall-Marvin Safe Company advertises, "We give you the benefit of our sixty years' experience in the manufacture of fire and burglarproof safes," etc., are they stating anything that is a fact to the public, or not?

Mr. MAXWELL: I object, and insist that the witness' testimony be confined to evidence of facts that he knows.

A. So far as I know, there is no one connected with the Herring-Hall-Marvin Safe Company in the management that would give them five years' practical experience in safe building.

Q. 283. Since the organization of the Hall's Safe Company in the fall of 1896, has it received from the post-office direct any mail addressed to Hall's Safe & Lock Company?

A. Not to my knowledge.

Q. 284. Have you received directly or indirectly mail addressed "Hall's Safe & Lock Company"; and if so, how?

A. We have received certain letters principally containing remittances from the Herring-Hall-Marvin Safe Company that were addressed to Hall's Safe & Lock Company, Cincinnati, Ohio, forwarded by the post-office authorities at Cincinnati, to Hamilton and opened by the Herring-Hall-Marvin Safe Co. and found to be relating to our business and have been returned to us. In some cases those remittances were delayed from two to ten days. There was such
204 delay in some cases that we had to take it up with the post-office authorities to see what could be done towards avoiding such uncalled for delays.

Q. 285. You say those letters containing remittances had been opened by the Herring-Hall-Marvin Safe Company before being forwarded?

A. Yes, sir.

Q. 286. Have you ever received any letters from them that had not been opened.

A. I think there were a few cases where they were addressed "Hall's Safe Co., Cincinnati," forwarded by the post-office authorities, and when they saw what the address was had returned them to us.

Q. 287. Unopened?

A. Unopened; and in a great many cases they were opened even with the address "Hall's Safe Co."

Q. 288. What other matter if any besides letters containing remittances were sent to you by the Herring-Hall-Marvin Safe Company?

A. Some containing bills, and some few containing correspondence wherein they knew it related to our business.

Q. 289. They related to your business how?

A. It was unfinished business on our part.

Q. 290. Orders already entered?

A. Orders already entered; and never to my knowledge have they sent any mail matter addressed "Hall's Safe & Lock Company, Cincinnati, Ohio," with original inquiries.

Q. 291. How about offers for new business?

A. That is what I referred to in the last answer, original inquiries; and there have been cases where they were almost sure, or they should have been sure they were intended for us, and they were returned to the writer, which were returned to us by the writer, for estimates on work; and it put us too late to get in on competing on the contract.

Q. 292. Have you preserved the envelopes in which those forwarded letters came to you from the Herring-Hall-Marvin Safe Company?

A. Yes, sir.

Q. 293. Will you produce them, and have the package marked as "Defendants' Exhibit No. 346?"

A. Yes, sir. (Producing package.)

Q. 294. What does that package weigh?

205 A. It weighs about fifteen pounds.

Q. 295. Were the original envelopes sent to you in all cases?

A. No, sir, in a great — cases we had to write for the original envelope to see how it was addressed, and in most of those cases the letter was marked "Hall's Safe Company, Cincinnati, Ohio."

Q. 296. I hand you a bunch of four addressed envelopes, and will mark the same as "Defendants' Exhibit No. 347," and ask you to state when and from whom those were received?

A. The envelopes are printed with the return card of the Hall's Safe & Lock Company, Cincinnati. In one case or on one envelope there is stamped across the face of the return card "Herring-Hall-Marvin Co., Hamilton, O." The post-office mark is "Hamilton, Ohio, Jan. 5, 6 P. M. '01." On the next envelope of this same batch (Exhibit 347) is stamped across the return card Herring-Hall-Marvin Safe Co., Hamilton, O.; the postmark is "Hamilton, O., Feb. 14, 7 P. M. 1901." On the fourth envelope of Exhibit 347 there is no stamp mark across the return card. Postmark is Hamilton, O., April 10, 7 P. M. '01." Consequently, these were evidently returned from the Herring-Hall-Marvin Company and the Herring Hall-Marvin Safe Company at Hamilton, Ohio.

Q. 297. Not returned, but sent to you?

A. Sent to us, enclosing, we presume, some of the mail that had been forwarded by the post-office authorities from Cincinnati to Hamilton.

Q. 298. I will ask you to state, Mr. Hall, whether any envelopes similar to this Exhibit were printed with the name "Hall's Safe & Lock Co.," after May, 1892, so long as you were connected with the Herring-Hall-Marvin Company?

A. They were not. There was no occasion to print "Hall's Safe & Lock Co." We were Herring-Hall-Marvin Co.

Q. 299. I will ask you to look at another package of envelopes—four envelopes—which I hand you and offer in evidence, marked as "Defendants' Exhibit No. 348"; and state what they are? (Handing).

A. The top envelope is addressed "The Hall's Safe Co., Kansas City, Mo." That is postmarked "Chicago, Ill.; Oct. 31, 1:35 P. M.,

'01." That is from the Borden & Selleck Co., 48 Lake Street, Chicago. In addition to the address, "Kansas City, Mo." there is a mark evidently by the Kansas City postmaster—I don't
206 know—"Box 635, Cincinnati, Ohio," which is scratched out and the word "Hamilton" written on the outside of the envelope. The Kansas City postmark is, "Kansas City, Nov. 1, 3 P. M., 1901." The Cincinnati stamp is "Cincinnati, Nov. 2, 2.30 P. M., 1901."

Q. 300. To avoid delay in reading the post-marks, etc., please state generally what those documents are and how they came into your possession?

A. The Borden & Selleck Co. of Kansas City, are dealers in our goods, and their bills are paid from the Borden & Selleck Co. of Chicago. The Borden & Selleck Company of Chicago have evidently made a mistake in addressing the envelope to us containing a remittance; and as they have a branch in Kansas City, it is readily seen how the mistake was made. The Kansas City postmaster has evidently sent it here, and from here to Hamilton. Now this applies to the four envelopes comprised in this Exhibit, and it is pretty generally known that the Borden & Sellick people are dealers in our goods.

Q. 301. Were those letters opened by the Herring-Hall-Marvin Safe Co. before being forwarded to you?

A. They were. There is a notation on one of them, "Opened by mistake, Herring-Hall-Marvin Safe Co."

Q. 302. Please examine the bunch of envelopes which I now show you and mark "Defendants' Exhibit No. 349." and offer in evidence, and state generally how and when they were received by your Company?

A. They were received by our Company through the mail from the Herring-Hall-Marvin Safe Co., or the Herring-Hall-Marvin Co., I could not say which now—depending on the date.

Q. 303. State whether or not they were opened before being forwarded to you?

A. In some cases they were opened. I do not believe this top one was. I cannot say as to that. The one marked "Edward Hall, Hall's Safe & Lock Co., Hamilton, O.," I do not believe was opened. The one marked "Hall Brothers Safe & Lock Company, Cincinnati, O.," and sent to Hamilton by the post-office authorities, was not opened. The one marked "Hall Brothers Safe & Lock Co., Cincinnati, O.," and forwarded to Hamilton, was not opened. I would say that all the others were, to the best of my knowledge.

Q. 304. State whether or not the Hall's Safe Company received any mail after the organization of the Herring-Hall-Marvin
207 Safe Company which belonged to that Company?

A. I cannot recall a single instance where the Hall's Safe Company received anything belonging to the Herring-Hall-Marvin Safe Company.

Q. 305. What has been the practice of the post-office at Cincinnati in regards to letters addressed to Hall's Safe & Lock Co.?

A. Invariably they have forwarded them to Hamilton.

Q. 306. What has been the custom of the postmaster at Kansas City, in regard to letters addressed to the Hall's Safe Co.?

A. Well, I don't know what has been his custom; but it is evident that he sent them there to Hamilton, or post-office box 635, Cincinnati.

Q. 307. What has been the habit of the postmaster at Cleveland, O., in the matter of forwarding mail addressed to the Hall's Safe Co.; has it been forwarded to Cincinnati?

A. No, sir it has not been forwarded to us.

Q. 308. Did you make an examination of the envelopes or any of them that were offered in evidence as Plaintiff's Exhibit No. 34; if so, state what examination and how far the examination went?

A. That was the batch of envelopes put in by the plaintiff. I examined one year.

Q. 309. State the year?

A. It was 1902; at Mr. Maxwell's office.

Q. 310. Did you find among the envelopes for that year, any marked with the names of customers of Hall's Safe Company?

A. Yes, sir there were a great many of them people that we had business with.

Q. 311. What percentage of them were without doubt intended for the Herring-Hall-Marvin Company?

A. Well, I should judge about five per cent, without any doubt whatever intended for them.

Q. 312. Have you any means of determining from the inspection of the envelopes what proportion of the remaining mail was intended for them and what might have been intended for yourselves?

A. No, sir, we have no way of knowing that without seeing the original letters. All the mail was forwarded to them by the post-office here; and all we have to judge by are the envelopes that are in that package.

Q. 313. Were you ever given an opportunity to inspect
208 any of the mail addressed "Hall's Safe & Lock Co.," forwarded to Hamilton which was not forwarded to you?

A. Yes, sir.

Q. 314. Do you know of instances in which mail received and retained by the Herring-Hall-Marvin Company was intended for your Company?

A. Yes, sir, there are quite a number of them.

At this stage, the direct examination of the witness, Mr. W. H. Hall, not being completed, the further taking of these depositions is by consent adjourned until 2:30 P. M., of this date.

Office of W. C. Cochran, Johnston B'ld'g,

CINCINNATI, O., MONDAY, *Feb.* 20, 1905.

Met pursuant to recess at 2:30 P. M., same parties present.

Whereupon, the witness, WILLIAM H. HALL, direct examination resumes, by Mr. Cochran:

Q. 315. Please mention any instances which you know of, in which mail belonging to you was retained by the Herring-Hall-Marvin Safe Company; and produce such evidence, if any, to be marked as Defendants' Exhibits in regular sequence?

A. One dated Jan. 3, 1905, marked "Defendants' exhibit No. 350," from Sames, Moore & Co., Laredo, Texas. They received one of our letters——

Mr. MAXWELL: Objected to on the ground that the unsworn statement of the writer is not competent evidence against us; and as it seems to be the intention of witness to introduce other hear-say evidence of the same sort, it is agreed that the objection may be preserved to each of the letters about to be produced in answer to this question, without repeating this objection as to each seriatim.

The WITNESS: Defendants' Exhibit as now marked, No. 351, is a letter from the Herring-Hall-Marvin Safe Company signed "R. T. Pullen, Vice Pres't," dated 6, 25, 1903, in which Mr. Pullen says that he inadvertently opened the letter, and leaves the envelope out. Defendants' Exhibit- No-. 352, 353, 354 and 356, relate to a lock sent by W. E. Jakway & Co., Kearney, Neb., that was intended for the Hall's Safe Company; and the Herring-Hall-Marvin Co. corresponded with Jakway with the intention of getting the lock. Defendants' Exhibit No. 357 is a letter dated May 10, 1904,
209 signed by the Herring-Hall-Marvin Company, per E W. Fechtling, addressed to Miller-Lea & Co., Rogersville, Tenn., wherein they advise them they are the successors of the Hall's Safe Company, Cincinnati. Exhibits 358, 359, and 360, relate to correspondence intended for the Hall's Safe Co., from Julian Sergeant Co., Columbus, asking for catalogue, etc., and referring in their original correspondence to a piece of work made by the Hall's Safe Co., conclusive evidence that the matter was intended for the Hall's Safe Co. Defendants' Exhibits Nos. 361, 362, 363, 364, 365, 366 and 367, relate to the repairs on two safes shipped by the Hall's Safe Co. to parties in Texas and Mexico, respectively, which were claimed for repairs by the Herring-Hall-Marvin Safe Co., St. Louis branch, and wherein Herring-Hall-Marvin Safe Co. St. Louis branch, asked us through the mails to furnish them with certain repair parts. Defendants' Exhibit No. 368, is a letter dated October 30, 1904, from John Parent & Co., Union City, Ind., wherein they advise us they had sent to us for repairs a door, and a few days later received a communication from the Herring-Hall-Marvin Safe Co. Defendants' Exhibit 369 is an envelope, and Defendants' Exhibit No. 370, is the letter dated October 6, 1904, addressed "The Hall's

Safe Co., Broadway and Walker Sts., City." It is dated in New York City, from Barrett, Nephews & Co., relating to the opening of a safe. This letter was received by the Herring-Hall-Marvin Safe Company according to their dating stamp, October 7, 1904, marked very plainly "The Hall's Safe Co." Defendants' Exhibits Nos. 371, 372 and 373 relate to a safe door for r[illegible]rs in which the Herring-Hall-Marvin Safe Company through E. F. Hall, Manager, wrote to the party endeavoring to get the business. Defendants' Exhibits 374, 375, 376, 377, relate to the making of keys for work which the Hall's Safe Co. did for the Bank of Commerce of Gulfports, Miss., and which the Herring-Hall-Marvin Safe Co. opened correspondence, etc. Defendants' Exhibit No. 378 refers to a communication dated December 10, 1904, from the Rhinelander Mutual Telephone Co., R. W. Crawford, Sec'y, Rhinelander, Wis., wherein he advises us that he addressed a letter to the Hall's Safe & Lock Co., that was intended for the Hall's Safe Co., and answered by the Herring-Hall-Marvin Safe Co., in reply to which the Herring-Hall-Marvin Safe Co. sent their catalogue. He renewed his request for prices to us. Defendants' Exhibits 379, 380, 381, 382, 383, 384
210 and 385, relates to specifications, blue prints, under date of Jan. 31, 1905, which is after the date of the first telegram, wherein J. M. Mossman claims to have sent the blue prints and specifications to the Hall's Safe Co., but through inadvertence addressed it "Hall's Safe & Lock Co.," which was forwarded to the Herring-Hall-Marvin Safe Co. at Hamilton, and by them returned to Mossman. Mossman afterwards returned this to us for our bid, at which time it was too late to get our bid on to New York before the letting of the job.

Q. 316 Whenever in the Exhibits referred to by you in answer to the last question, you offer copies of letters written by the Hall's Safe Company, are you able to state whether or not those are true copies of letters sent by you in that chain of correspondence, Defendants' Exhibits Nos. 350 to 385, inclusive?

A. I would say they were true copies.

Q. 317. Please look at the letter marked as "Defendants' Exhibit No. 386," and state if you know what that is?

A. That is a letter dated June 1, 1903, from Holley, Mason & Marks Co., per Adams, Cashier, addressed to Connell Hardware Co., Connell, Washington.

Q. 318. Are they customers of yours?

A. The Connell Hardware Co., I think is a customer of our Seattle dealer.

Q. 319. How do you know that is a letter of Holly, Mason Marks & Co.?

A. From comparison of signature of H. O. Adams in a letter addressed to us on June 3, 1903.

(Above letter now offered in evidence in behalf of defendants, and is marked as "Defendants' Exhibit No 387.")

Q. 320. You may state how you came to write the letter to which Defendants' Exhibit 387 is an answer?

A. We received a circular letter dated April 11, 1903, on a Holly, Mason, Marks & Co. letter-head, and signed in typewriter by them addressed to Messrs. Cusick & Bruce, Waterville, Washington.

Q. 321. How did you come in possession of that letter?

A. We received it through our Seattle dealer.

Q 322. Were the parties addressed in that letter customers of your-?

A. Customers of our Seattle dealer.

211 Mr. COCHRAN: I will offer that letter in evidence, as "Defendants' Exhibit No. 388," also letter marked "Defendants' Exhibit No. 389."

The WITNESS: Defendants' Exhibit No. 389, dated May 28, 1903, is a copy of letter addressed to Holly, Mason, Marks & Co., Spokane, Wash., by the Hall's Safe Company. I know that to be a correct copy.

Q. 323. Mr. Hall, Mr. Pullen testified in answer to question 45 in his direct examination—"Herring-Hall-Marvin Co. always announced itself as the successor to the firm to which I have referred, Hall's Safe & Lock Co., Herring & Co., Marvin Safe Co., Farrell & Co., and Myers & Smith." Is that a correct statement of fact?

A. No, sir, it is not.

Q. 324. Did they ever announce themselves as successors to Hall's Safe & Lock Company prior to the organization of Hall's Safe Co.?

A. Never to my knowledge.

Q. 325. Among the exhibits identified by Max Palm were a number of transfers prepared and delivered by him to Herring-Hall-Marvin Co. in 1892, in which the name "Hall" appears in larger letters than "Herring" and "Marvin." Was a second batch of that form of transfer ever ordered by the Herring-Hall-Marvin Co.?

A. No, sir.

Q. 326. Why not?

A. Well, it created a great deal of a row down East among the eastern directors; they didn't think the name "Hall" wanted to appear any larger than "Herring" and "Marvin," and the word "Company."

Q. 327. Mr. Hall, were you a creditor of Herring-Hall-Marvin Co. at the time of its failure?

A. Yes, sir.

Q. 328. To what extent?

A. I don't remember the exact amounts. I think it was something like four or five hundred dollars.

Q. 329. What percentage of that claim was paid?

A. About twenty-five, I think it was.

Q. 330. Were you a stockholder in the Herring-Hall-Marvin Co. at the time of its failure?

A. Yes, sir.

Q. 331. How many shares did you hold?

A. To tell the truth I cannot tell you, Mr. Cochran.

Q. 332. About how many?

A. Why, I should say a couple of hundred of them anyhow.

212 Q. 333. Have you ever received any stock in the Herring-Hall-Marvin Safe Company?

A. No, sir.

Q. 334. Has the Herring-Hall-Marvin Safe Co. ever paid you anything on account of your claim against the Herring-Hall-Marvin Co.?

A. Not a dollar.

Q. 335. I will ask you to look at the exhibit which I now offer in evidence marked as "Defendants' Exhibit No. 334*a*," and state what that is?

A. That is a material order blank used by the Herring-Hall-Marvin Co. It was printed in the 4th month, 1896.

Q. 336. You had during the same month some order blanks printed in the name of Hall's Safe & Lock Works, did you not?

A. Yes, sir.

Q. 337. What was the object in having the other blanks executed?

A. Because I as purchaser of the Herring-Hall-Marvin Co. refused to sign orders for material under the name of "Hall's Safe & Lock Works."

Q. 338. Now, Mr. Hall, if there are any corrections in your testimony, or any things you wish to explain that I have not called attention to, now is the time to put them in?

A. Well, I made a mistake of date when you asked me yesterday regarding the length of time that I was President of the Hall's Safe & Lock Co. I had in mind the 12th, on account of the twelve days, May 1892. It was May 31st when I resigned as President of Hall's Safe & Lock Co. And I also, in giving the list of the stockholders of the Hall's Safe & Lock Co., overlooked one share that Mr. Pullen had which he had to have as an officer of the company; that I presume, will come off the Joseph L. Hall, number.

Q. 339. Have you with you the stock book of Hall's Safe & Lock Co.?

A. Yes, sir.

Q. 340. The records of Hall's Safe & Lock Co.?

A. Yes, sir.

Q. 341. And the originals of the letters leading to your release from your contract of employment with the Herring-Hall-Marvin Co.?

A. Yes, sir.

Q. 342. Please produce them for inspection of counsel for plaintiff?

213 A. I do hereby. (Producing same.)

Q. 343. You may state, Mr. Hall, whether for purposes of distinguishing the product of Hall's Safe Co. from that of Herring-Hall-Marvin Safe Co., or any others, you have adopted a trade-mark; if so, state when, and what the trade-mark is?

A. We took a trade-mark in the summer of 1902. It is a spread

eagle, with a safe on its breast and a scroll in its talons. On the front of the safe is the name, "The Hall's Safe Co., Cincinnati;" and on the scroll is "Made in U. S. A."

Q. 344. To what extent has that trade-mark been used since?

A. It has been used on everything that we have made in the shop of safes or vaults; and as soon as we got out the small trade-mark we put it on every tin box in our safety deposit boxes that have gone out. In fact, it is used on everything.

Q. 345. You have stated that Mr. William Corry left the Herring-Hall-Marvin Safe Co. two or three years ago. Has he ever been in the employment of the Hall's Safe Co. since the organization of the Herring-Hall-Marvin Safe Co.?

A. No, sir, the Herring-Hall-Marvin Safe Co. offered him big inducements.

Mr. MAXWELL: I move that that answer be stricken out inasmuch as the witness does not profess to testify to any thing of his own knowledge.

Q. 346. Do you know where he is employed now?

A. He is Vice President of the Chrome Steel Works, Chrome, N. J.

Cross-examination by Mr. MAXWELL:

X Q. 1. Who printed the catalogue, Exhibit No. 18? (Handing.)

A. I don't see his mark on it, Mr. Maxwell, but I am very sure the Bradley Sorin Company printed it.

X Q. 2. Of Cincinnati?

A. Yes, sir.

X Q. 3. Cover and all?

A. I will say either Bradley & Sorin or the Gibson Sorin Company. There was a split there and I can't tell the exact date. Either one of those two companies, cover and all.

214 X Q. 4. Was that the first catalogue that the Hall Safe Company got out?

A. No, sir.

X Q. 5. When did they get out their first catalogue?

A. I don't remember the exact date, but it was right after we started in business.

X Q. 6. Have you one of those catalogues?

A. I don't know whether we can find one of those or not.

X Q. 7. Please search and produce one of your first catalogues. Who printed that first catalogue?

A. I should say, Gibson & Sorin.

X Q. 8. Was it an illustrated catalogue?

A. Yes, sir.

X Q. 9. Similar to Complainants' Exhibit No. 18?

A. Somewhat similar, yes.

X Q. 10. How long did you use that first catalogue?

A. Until the supply was exhausted. I couldn't say how long.

X Q. 11. How many did you have printed?
A. Well, I can't say that exactly, Mr. Maxwell.
X Q. 12. Give us your best recollection?
A. Oh, probably 1500 to 2000, maybe more.
X Q. 13. Have you no recollection of the time during which you used that first catalogue?
A. I would say two or three years.
X Q. 14. When did the Hall Safe Company first begin to do business?
A. We organized in September '96.
X Q. 15. When did you first do business?
A. We had business coming in right along, but none going out, almost from that time.
X Q. 16. When did you first sell safes?
A. Well, we sold safes early in '97.
X Q. 17. Do you mean that you produced any of your manufactured article prior to June, '97?
A. I can't say, but I can refer to it and let you know.
X Q. 18. This first catalogue that you speak of, was that issued before you began to sell safes?
A. No.
X Q. 19. When did you prepare it?
A. Why, as soon as we could get our things together.
X Q. 20. That does not give me the date?
A. I can't give you the date. I will have to look it up.
X Q. 21. Did you issue it before you manufactured the product?
215 A. That I couldn't tell you.
X Q. 22. When was — second catalogue published?
A. I cannot tell you that, Mr. Maxwell, as to the date, exactly.
X Q. 23. Is Exhibit No. 18 your second catalogue?
A. No, I wouldn't think it was.
X Q. 24. Who printed the second catalogue?
A. Well, that was printed either by the Gibson & Sorin Company or the Bradley & Sorin Company.
X Q. 25. Please produce a copy of your second. Will you do so?
—. I will try, yes, sir.
X Q. 26. Did it differ from the first?
A. Not materially. I can't say as to what new ones were put in, or what were not.
X Q. 27. It was an illustrated catalogue?
A. It was an illustrated catalogue.
X Q. 28. How many of this second catalogue did you have?
A. I will have to look that up.
X Q. 29. Have you any recollection?
A. I should judge about the same amount as the first edition.
X Q. 30. When was your third catalogue issued?
A. It is my impression this is about the third catalogue, this of 1900.
X Q. 31. What subsequent catalogues did you issue?
A. 1902.

X Q. 32. That is Exhibit No. 19?

A. Yes; and the same catalogue with a change of covers and some of the pages changed.

X Q. 33. That is Exhibit No. 340?

A. Yes, I think it was.

X Q. 34. Who printed Exhibit No. 340?

A. I would say that Bradley & Sorin did.

X Q. 35. What time in 1902 did they print that exhibit?

A. I haven't looked up the dates, Mr. Maxwell, but I can find it out.

X Q. 36. Please do so and let us know. Did you issue a catalogue subsequent to the one of which Exhibit 340 is a copy?

A. Yes, we issued some catalogues in 1904.

X Q. 37. Have you a copy of that?

A. I could get a copy.

X Q. 38. Was that your last catalogue?

216 A. We are working on one now, but it is not out.

X Q. 39. Then the one that was published in 1904 is the last that has been issued?

A. The last that has been issued.

X Q. 40. How many of Exhibit No. 340 did you publish?

A. Probably 1500 to 3000; I couldn't say exactly.

X Q. 41. What did you do with those various catalogues?

A. We have sent them to our dealers.

X Q. 42. All parts of the United States?

A. All parts of the United States.

X Q. 43. Did you send them to your intending purchasers to illustrate your safes?

A. We sent a few out. Ordinarily we do not do it.

X Q. 44. Ordinarily, what do you send out?

A. We send out either four, six or eight page circulars, or a cut, if they specify any way near the size.

X Q. 45. Have you copies of those four, six or eight page circulars?

A. I think I can get them.

X Q. 46. Please do so. Who designed the cover on Exhibit No. 18?

A. Well, I am sorry to say that I did.

X Q. 47. And also the cover on Exhibit No. 19?

A. Yes, sir.

X Q 48. Who superintended the preparation of those catalogues of which Exhibits 18 and 19 are copies?

A. I did.

X Q. 49. Will you please state whether your name or the name of E. C. Hall, or any other individual name, appears in that catalogue?

A. I do not think it does.

X Q. 50. Does it appear in Exhibit No. 19, or Exhibit No. 340?

A. I am sure I do not believe it appears in either one of them.

X Q. 51. Does it appear in any of the catalogues that you have published?

A. Oh, yes.

X Q. 52. Which one?

A. Well, 1904, I think. Now, I wouldn't be positive as to that. It is my impression it does.

X Q. 53. We will ascertain that when you produce a copy of it. Did the name of yourself, or brother, or any other individual
217 name appear in any catalogue prior to 1904?

A. I hardly think it did.

X Q. 54. Was the cover of Exhibit No. 19 printed by you?

A. Through us, yes, sir.

X Q. 55. In other words, you put the name of Kinsey, Ranier & Thomson on that cover?

A. Yes, sir; that is my impression.

X Q. 56. On how many of those catalogues did you print the name of Kinsey, Ranier & Thomson?

A. That I could not say, but Kinsey, Ranier & Thomson would order 100, and we would send 100 catalogues to the printer and have the name put on.

X Q. 57. Did Kinsey, Ranier & Thomson pay you for the catalogues, or for the printing of their names on the catalogues?

A. No, sir.

X Q. 58. What use did Kinsey, Ranier & Thomson make of those catalogues?

A. They used those catalogues to sell the goods that they bought from us, as it represented our manufacture of goods.

X Q. 59. Were they your sole agents in New York City?

A. They were our sole agents in New York City.

X Q. 60. What territory, if any, did they have except New York City?

A. Well, they had the state of New York and part of New Jersey.

X Q. 61. What part of New Jersey?

A. About half of it from north to south.

X Q. 62. When did they begin to represent the Hall's Safe Company?

A. I think about '98.

X Q. 63. Did you have a representative in New York City prior to that time?

A. No, sir.

X Q. 64. Did you sell goods in New York City?

A. Yes, sir.

X Q. 65. In what way—through what agency?

A. We did not sell them through an agency. We sold them, some of them, through parties here, they were shipped to New York—would hardly be called selling in New York.

218 X Q. 66. You did not have offices in New York, then, prior to '98?

A. I will not say prior to '98. I will say prior to the time that Kinsey, Ranier & Thomson took hold.

X Q. 67. Did you have a written contract with Kinsey, Ranier & Thomson?

A. Yes, sir.

X Q. 68. Will you please produce it?

A. I will try.

X Q. 69. You have it in your possession?

A. I think so.

X Q. 70. Then please produce it. Have Kinsey, Ranier & Thomson been at 393 Broadway since they first became your representative in New York?

A. I think, all the time.

X Q. 71. Have you seen the store, 393 Broadway, frequently?

A. Not in the last two years and a half.

X Q. 72. You have not been in New York in that time?

A. No, sir.

X Q. 73. Prior to that time did you see the store?

A. Yes, sir.

X Q. 74. Frequently?

A. Yes, sir.

X Q. 75. Were you there when they opened the store?

A. No, sir.

X. Q. 76. How soon after they opened the store were you there?

A. Oh, I couldn't say that.

X Q. 77. About how soon?

A. Oh, it may have been six months or it might have been a year.

X Q. 78. Has your brother, E. C. Hall, been in New York, frequently since Kinsey, Ranier & Thomson represented you?

A. Yes, sir.

X Q. 79. How frequently?

A. Now, which one do you refer to, Kinsey, Ranier & Thomson Company, or Kinsey, Ranier & Thomson?

X Q. 80. Since you opened a store in New York through Kinsey, Ranier & Thomson or their successors?

A. I suppose within up to the last two years he was in New York two or three times a year.

X Q. 81. Do you recognize Plaintiff's Exhibit No. 39 as a photograph of 393 Broadway? (Handing.)

A. Yes, I should say it was.

219 X Q. 82. Did you notice the sign on the window, "The Hall's Safe Company, W. H. Hall, Treasurer, E. C. Hall, President"?

A. I see that on the photograph.

X Q. 83. Did you see it on the store?

A. I have never seen it on the store.

X Q. 84. Do you mean that that was not on the store when you saw it?

A. That was not on the store when I saw it last.

X Q. 85. You notice on the window the sign "Hall's Safes," did you see that?

A. I couldn't say, Mr. Maxwell, whether that was on the window or not, the last time I saw it.

X Q. 86. Was it there the first time you saw it?

A. I don't think it was there at any time I saw it; that is my impression.

X Q. 87. What is the full inscription on the circular sign that ap-

pears on Exhibit No. 39; in other words, shown by the photograph, "Hall's Safes," and below, "Kinsey, Ranier & Thomson"?

A. That I could not tell you, I never saw it since the Kinsey, Ranier & Thomson Company took hold.

X Q. 88. Have you a written contract with Kinsey, Ranier & Thomson to show the terms upon which you sent safes to them?

A. I think so.

X Q. 89. Don't you know so?

A. Not positively. I have no personal knowledge of the two companies at all, so far as their inner workings are concerned.

X Q. 91. Have you a written contract with the Kinsey, Ranier & Thomson Company?

A. We have not.

X Q. 92. Who made the contract with the Kinsey, Ranier & Thomson Company?

A. There is no contract with the Kinsey, Ranier & Thomson Company.

X Q. 93. What dealings do you have with that company?

A. We name them prices on which we will deliver safes on board cars at Cincinnati.

X Q. 94. How do you name those prices?

A. By correspondence.

X Q. 95. You mean, from time to time?

A. Time to time.

X Q. 96. You have no fixed prices, no form of contract with that Company?

220 A. We can change the price at any time.

X Q. 97. Are you a stockholder in the Kinsey, Ranier & Thomson Company?

A. No, sir.

X Q. 98. Who is the president of that company?

A. I think E. C. Hall is.

X Q. 99. You mean your brother, E. C. Hall?

A. Yes, sir.

X Q. 100. How long has he been president?

A. Since its organization, I suppose.

X Q. 101. Are you in any doubt about his being president of that company?

A. None whatever.

X Q. 102. Do you know who the stockholders of that company are?

A. I do not.

X Q. 103. You know your brother, E. C. Hall, organized that company, don't you?

A. Yes, sir.

X Q. 104. Do you know any other stockholders in that company, except himself?

A. Not of my knowledge, only from hearsay.

X Q. 105. The stock that he holds in that company belongs to the Hall's Safe Company?

A. It does not.

X Q. 106. Have you any interest in it?

A. Not a dollar's worth.

X Q. 107. Plaintiff's Exhibit No. 42 used by that company contains the term "Hall's Safes." What do you understand by that?

A. I understand they are selling "Hall's Safes."

X Q. 108. What do you understand the "Hall's Safe" to be?

A. The "Hall's Safe" is a safe manufactured by the Hall's Safe Company.

X Q. 109. You mean that it would be so understood generally by the trade?

A. It would be so understood generally by the trade, what I mean by the "trade" is our dealers.

X Q. 110. That is, you mean the dealers of the "Hall's Safe Company"?

A. The dealers of the "Hall's Safe Company."

X Q. 111. What did the "Hall's Safe" mean in December, '91?

A. The "Hall's Safe" in December, '91, meant a safe manufactured by the Hall's Safe & Lock Company.

221 X Q. 112. That was a well known term, was it?

A. Undoubtedly.

X Q. 113. It would mean a safe made either by the Hall's Safe & Lock Company, or by its predecessors in business, would it not?

A. Not necessarily. It would mean a safe made by the Hall's Safe & Lock Company.

X Q. 114. Would a safe made by Joseph L. Hall & Company be known in December, '91, as a "Hall's Safe"?

A. That is beyond my time in the safe business, and I don't know what safes were known as. I would presume that a safe made by Joseph L. Hall would be called a "Hall's Safe."

X Q. 115. What would be known as a "Hall's Safe" in June, '92?

A. What part of June?

X Q. 116. Well, take the first of June?

A. Would be known as a safe made by the Hall's Safe & Lock Company.

X Q. 117. The safes made by the Hall's Safe and Lock Company were widely advertised as "Hall's Safes," were they not?

A. Yes, spoken of as "Hall's Safes."

X Q. 118. By the trade and by people generally, were they not?

A. Yes, sir.

X Q. 119. And were so known and designated throughout the United States, were they not?

A. In talking of a safe, a Hall's Safe & Lock Company safe would be called a "Hall's Safe."

X Q. 120. If anybody told you that he had a "Hall's Safe," you would understand that he had a safe made by the Hall's Safe & Lock Company, or by the Joseph L. Hall's, would you?

A. Not necessarily by Joseph L. Hall & Company, because I never heard them called "Hall's Safe," but by Hall's Safe & Lock Company.

X Q. 121. You mean you were not in the business when Joseph L. Hall & Company were doing business?

A. That is it, exactly.

X Q. 122. But don't you know, as a safe man, that the product of Joseph L. Hall was known as "Hall's Safes"?

A. I never heard it designated as "Hall's Safes," Mr. Maxwell. I should think, as I said before, it would be called a "Hall's Safe."

X Q. 123. Since you cannot tell me what you under-
222 stand by a "Hall's Safe," on the first of June, '92, is there any other day in June when you would ascribe a different meaning to the term "Hall's Safe"?

A. When the Hall's Safe & Lock Company went out of existence, they stopped manufacturing "Hall's Safes," so there were no more "Hall's Safes" turned out.

X Q. 124. But there are hundreds of thousands of those safes in existence, are there not, made by the Hall's Safe & Lock Company?

A. Yes, sir.

X Q. 125. And they continued to be known as "Hall's Safes"?

A. Yes, those that were out.

X Q. 126. Then on the 16th day of June, if anybody spoke of a "Hall's Safe," you would understand that they referred to a safe made by the Hall Safe & Lock Company?

A. By the old company.

X Q. 127. Now, when was it that a "Hall's Safe" came to be known as a safe made by Hall's Safe Company?

A. After the Hall's Safe Company began making their safes they were known as "Hall's Safes" among our dealers.

X Q. 128. What date do you fix that in?

A. Well, during the year of '97.

X Q. 129. Then up to that date in 1897, the precise day of which you are not able to tell us, "Hall's Safes" indicated a safe that had been made by the Hall's Safe & Lock Company?

A. Yes, sir.

X Q. 130. And the day after you began to make safes, a "Hall's Safe" meant a safe made by the Hall's Safe Company of Cincinnati; is that it?

A. Yes, sir.

X Q. 131. Do you mean that the safes theretofore made by Hall's Safe & Lock Company were not thereafter known as "Hall's Safes"?

A. I did not say that.

X Q. 132. Please tell us, what your idea about that is?

A. I explained that a little while ago.

X Q. 133. Please explain it again?

A. That safes made by the Hall's Safe & Lock Company were known as "Hall's Safes." Hall's Safe & Lock Company went out of existence in '92, they made no more safes. When the Hall's Safe Company, say in '97, began to manufacture "Hall's
223 Safes" they were known as "Hall's Safes."

X Q. 134. I understood you to say that if anybody spoke of a "Hall's Safe" in, say, February, '97, you would understand that

it would be a safe made by the Hall's Safe & Lock Company, would you?

A. In February, when?

X Q. 135. 1897?

A. Yes, sir; they would be speaking of the old safe, for instance——

X Q. 136. And in March?

A. Oh, I couldn't say as to the month.

X Q. 137. Then the day after you began doing business, the significance of the term "Hall's Safe" changed, did it?

A. Undoubtedly.

X Q. 138. And you say then "Hall's Safe" then meant a safe made by you?

A. When we are the only Halls in the safe business.

X Q. 139. You claim that the day after you began doing business that the term "Hall's Safe" no longer meant a safe made by the Hall's Safe & Lock Company, but it meant a safe made by you?

A. I did not say that, Mr. Maxwell.

X Q. 140. Please tell us what you say about that?

A. I said that two or three times a little while ago, that the old safes made by the Hall's Safe & Lock Company were known as "Hall's Safes."

X Q. 141. Are they known to this day as "Hall's Safes?"

A. An old safe, do you mean?

X Q. 142. Made by the Hall's Safe & Lock Company?

A. Why, of course it would be called a "Hall's Safe."

X Q. 143. Then on the first of July, '97, there were two things that were known as "Hall's Safes"—safes that had been made by the Hall Safe & Lock Company and safes that had been made by you?

A. Yes. One was a new product, and the other was an old one.

X Q. 144. One was a new Hall, the other was an old Hall?

A. If you want to put it that way.

X Q. 145. Did the "Hall's Safes" made by the Hall's Safe & Lock Company have a great reputation?

A. Yes, sir.

224 X Q. 146. The best of any safes in the United States, didn't they?

A. We thought so.

X Q. 147. Well, it was a fact, wasn't it?

A. From our view, yes, sir.

X Q. 148. From anybody's else, weren't the "Hall's Safes" better known than the safes of any other manufacturer in the United States?

A. Now, Mr. Maxwell, other safe men said that they made as good a safe as the "Hall's Safe." We thought ours was the best.

X Q. 149. Was the Hall's Safe & Lock Company the largest manufacturer of safes in the United States?

A. That was the supposition.

X Q. 150. They made more safes than all other manufacturers put together, didn't they?

A. I wouldn't say that.

X Q. 151. We will excuse your modesty, and ask you whether that was not the general understanding in the safe trade?

A. The general understanding was that they made a great many safes.

X Q. 152. I will ask you whether the general understanding in the safe trade was not that the Hall Safe & Lock Company made more safes than all other manufacturers put together in the United States?

A. I don't believe it was.

X Q. 153. What were the sales of Hall's Safe & Lock Company per annum?

A. I couldn't tell you, Mr. Maxwell.

X Q. 154. About how much?

A. Oh, in the neighborhood of $1,000,000, I guess.

X Q. 155. When did you and your brother, E. C. Hall, determine to go into the safe business?

A. After we got out of the Herring-Hall-Marvin.

X Q. 156. How soon after?

A. I guess immediately after.

X Q. 157. You determined to do so before you got out, didn't you?

A. Why, I can't say that I did.

X Q. 158. Well, you discussed it, didn't you?

A. More than likely. We didn't know whether we would get together or not.

X Q. 159. In what way do you mean by "getting together"?

225 A. Well, how does any company get together? There has got to be an understanding on both sides.

X Q. 160. With respect to capital that is up, officers, and so on?

A. Yes, sir.

X Q. 161. What discussion did you have about the name you would use?

A. That was talked over with Mr. Cochran, our attorney.

X Q. 162. What was talked over?

A. The name.

X Q. 163. Why did you have to talk with your attorney about the name that you were going to use?

A. Because we wanted to incorporate and wanted him to forward the papers.

X Q. 164. I can understand why he might have drawn up the papers and put in the name that you had agreed upon, but how did you come to confer with Mr. Cochran about what name you should adopt?

A. Most any client of yours would want to confer with you as to the possibilities.

X Q. 165. What possibilities did you talk with him about?

A. As to the name.

X Q. 166. As to the right to use the name of "Hall"?

A. Possibly.

X Q. 167. You did talk with him about your right to use the name of "Hall"?

A. Undoubtedly.

X Q. 168. You were not certain of your right to do so?

A. We were.

X Q. 169. But you thought you would take his advice?

A. Yes, sir.

X Q. 170. Why did you think it necessary to take his advice about using the name "Hall"?

A. Because he had had legal experience and we had not.

X Q. 171. Did you consider the name "Hall" a valuable one to use in the safe business at that time?

A. Yes; we considered our name very valuable.

X Q. 172. Do you mean you considered the name of "Hall" very valuable?

A. Yes—E. C. Hall or W. H. Hall—as long as it is Hall.

X Q. 173. I call your attention to the facts that you might
226 have used the name "E. C. Hall," or "W. H. Hall," instead of "The Hall Safe Company," you might have called it "The E. C. Hall Safe Company," or "W. H. Hall's Safe Company"; but you called it the "Hall's Safe Company," that was the name that you considered valuable?

A. We adopted that, employed that rather than the name of E. C. Hall or W. H. Hall.

X Q. 174. You considered that name very valuable in the safe trade?

A. Yes, sir.

X Q. 175. If I, for instance, could have organized a safe company in 1896 and called it the "Hall's Safe Company," I would have had a great advantage, wouldn't I?

A. I don't think you would.

X Q. 176. Why not?

A. Because you have had no experience in the safe business.

X Q. 177. Would not the fact of my calling the company the "Hall's Safe Company," and advertising my safes as "Hall's Safes," have been a great advantage to me?

A. No, sir.

X Q. 178. How do you account for that, in view of the great reputation of the name "Hall"?

A. You going into the safe business as you are, you mean?

X Q. 179. No, I am not assuming that I would go in as I am; I am assuming that I would get together a lot of very experienced safe builders, have good workmen and a fine plant and all the facilities for turning out good safes; and the question would be whether I would call the company that I was about to organize, the "Continental Safe Company," or the "Hall's Safe Company;" would it have been a great advantage to me to call it the "Hall's Safe Company"?

A. I couldn't say, Mr. Maxwell.

X Q. 180. Then it was no advantage to you — call your company the "Hall's Safe Company"?

A. It was a great advantage to us to call our company the "Hall's Safe Company."

X Q. 181. Why—why?

A. Because our name was Hall, and we had had experience as "Hall."

X Q. 182. Suppose you called it the "Continental Safe Company"; you would have had the same experience, you and your
227 brother would have been there to get out excellent safes and solicit trade and organize the business?

A. Because the "Continental Safe Company" would not have designated that the "Halls" were in the safe business.

X Q. 183. Then the advantage of not taking the name "Continental Safe Company," was to designate that the "Halls" were in that business?

A. Yes, sir.

X Q. 184. Did you confer with anybody else, except Mr. Cochran, with respect to your right to use the name "Hall"?

A. I think not.

X Q. 185. Did you expect, by the use of the name "Hall" to get the benefit of the reputation that the "Hall's Safes" had acquired during a long course of business?

A. We expected, by the use of our own name, "Hall," to get the benefits of our experience as safe makers.

X Q. 186. You surely did not need to use any name to get the benefit of your experience. Your experience you had, and your knowledge and your capacity, those you had, no matter what name you used?

A. Yes, sir.

X Q. 187. Then that couldn't have been the reason?

A. That was the very reason.

X Q. 188. Why did you put in Exhibit No. 18, occupying a whole page, page 212 of that exhibit as follows? (Exhibiting to witness.)

A. On that page we have it marked "History of Hall's Safes." Our grandfather, E. Hall, of E. Hall & Company, started in business about 1840. Joseph L. Hall, of Joseph L. Hall & Company, was our father. He started in the neighborhood of 1850, something, or '60, as Joseph L. Hall & Company, and it was through that pride of family that we put this page in. We are three generations making safes.

X Q. 189. I don't see a word on that page or in the book about your father, or your grandfather or yourselves?

A. Other than the bottom—"Three generations of high-grade safe making proves that quality tells."

X Q. 190. That is what you mean by the generations?

A. Yes, sir.

X Q. 191. You mean that the first generation of the safe business is E. Hall's Company?

A. Was our grandfather.

228 X Q. 192. It doesn't say anything about your grandfather?

A. I know, but that is understood by the public.

X Q. 193. And that your second generation was Joseph L. Hall & Co.?

A. Joseph L. Hall.

X Q. 194. "& Co.," it says?

A. I know it says.

X Q. 195. And that the third generation was the Hall's Safe Company?

A. That is it.

X Q. 196. Where is the generation of the Hall's Safe and Lock Co.?

A. The Hall's Safe & Lock Company was composed of a great many stockholders. They were not all named "Hall."

X Q. 197. So you left that generation out?

A. We did not think of that generation.

X Q. 198. Didn't you leave it out because you knew it would call attention to the Hall's Safe & Lock Company?

A. No, sir; we put that in for just the reason that I have stated.

X Q. 199. I suppose you put that page in because you thought it would be a good advertisement, didn't you?

A. Mr. Maxwell, every page we put in that catalogue was for an advertisement.

X Q. 200. Did you prepare that genealogy and history of the safe business?

A. I prepared that page.

X Q. 201. Did you submit that to your brother, E. C. Hall?

A. I did.

X Q. 202. And did he approve of it?

A. He had no objections.

X Q. 203. Did he offer any suggestions?

A. I don't know that he did.

X Q. 204. Why did you put in page 47?

A. To tell you the truth, it was put in to help fill up the catalogue.

X Q. 205. Was that the only reason for putting it in?

A. No, we wanted to have the advertisement.

X Q. 206. You know that is why you put it in?

A. Yes, sir.

X Q. 207. It was not put in to fill up the catalogue?

A. It was, to a certain extent.

X Q. 208. It was not put in to fill up the catalogue, but
229 you put that page in, not because you had a waste page, but you put it in for an advertisement, didn't you?

A. We had to put something in that page to bring the next two pages opposite each other.

X Q. 209. Why did you put on that page what you put there?

A. Now, Mr. Maxwell, I can't say why we did it.

X Q. 210. I will ask you to tell the court honestly whether you did not put it in there for the purpose of getting the benefit of the great reputation of "Hall's Safes?"

A. We put that page in to get the reputation of "Hall's Safes."

X Q. 211. When you put there that "Hall's Safes are the best," what did you mean?

A. That they are the best.

X Q. 212. What "Hall's Safes" do you refer to?

A. Our own.

X Q. 213. You mean those made by the Hall's Safe Company of Cincinnati?

A. Yes, that is all that the catalogue refers to.

X Q. 214. This catalogue says, "Unrivaled record of the Hall's Safes in the great fire of Chicago." When did that fire occur?

A. That fire occurred in '71; there were other great fires in Chicago.

X Q. 215. I am not talking about other great fires, I am talking about the great fire of '73 to which you referred here?

A. I don't know of any great fire in '73.

X Q. 216. I refer to the fire of '71?

A. We designated in '71.

X Q. 217. The fire that you refer to on that page as the great fire of Chicago, Illinois——

A. The fire that that refers to.

X Q. 218. What fire is that?

A. I don't remember now exactly, what fire.

X Q. 219. Do you mean to tell the Court that you did not intend by that reference to the great fire of Chicago, Illinois, to designate the great fire of '71?

A. I don't mean to tell the Court anything of the kind.

X Q. 220. Then tell the Court what fire you do refer to?

A. That refers to the great fire of Chicago.

X Q. 221. Of '71?

A. I don't know as to the date, exactly.

230 X Q. 222. Do you mean the fire at which Chicago was almost destroyed?

A. Well, you can take it that way, if you wish.

X Q. 223. Is that what you meant?

A. Yes—and no.

X Q. 224. Please explain what you mean by "Yes and no?"

A. That is one of the pages, Mr. Maxwell, that we pulled out.

X Q. 225. Why did you pull it out?

A. Because Mr. Cochran told us to.

X Q. 226. Because he told you it was a fraud for you to put such an advertisement in there?

A. He did not tell us it was a fraud.

X Q. 227. Did he tell you it was wrong?

A. He did not.

X Q. 228. Why did you take it out?

A. He told us we had no business to put it in, and we then took it out.

X Q. 229. Why did he tell you, you had no business to put it in?

A. You will have to ask Mr. Cochran about that. He didn't designate.

X Q. 230. I want to come back and ask you to tell the Court what

fire you referred to in Chicago, Illinois, in giving the list of the great fires on that page?

A. Well, if you want it that way, put it the '71 fire.

X Q. 231. Is that the fire you referred to?

A. That refers to any great fires in Chicago—or any great fire in Chicago.

X Q. 232. No; it don't refer to any great fire, it refers to the great fires of Chicago, Illinois?

A. Yes, sir; there has been a great many great fires in Chicago.

X Q. 233. Which one of them did you refer to on that page?

A. We have not designated.

X Q. 234. Then you don't refer to any?

A. We referred to just what we say.

X Q. 235. What great fire in Chicago occurred after 1897?

A. I can't tell you that, Mr. Maxwell.

X Q. 236. When you referred to the great fire at Boston, Mass., what fire did you have in mind?

A. The great fire of Boston.

231 X Q. 237. What year was that?

A. I can't tell you.

X Q. 238. It was in the seventies, was it?

A. There was a great fire in the seventies, I think.

X Q. 239. Isn't that the fire that you referred to?

A. Well, if you want it that way.

X Q. 240. No; I want you to tell the Court. If you are not willing just say so and you can so answer? But I want to ask you frankly now what fire you referred to on that page when you catalogued the great fire of Boston, Mass.?

A. Well, put it as the great fire of '71, or whenever it was.

X Q. 241. Now, the Hall's Safe Company had no safes in that fire, did they?

A. No, sir.

X Q. 242. Then what you referred to as the "Unrivaled record of the Hall's Safes" in the great fires mentioned there, was the record of "Hall's Safes" made by Joseph L. Hall & Company, or the Hall's Safe & Lock Company, didn't you?

A. We say nothing about those people, but that is undoubtedly what we referred to.

X Q. 243. Why did you refer to those safes?

A. Because we thought it was a good advertisement.

X Q. 244. Thought it was a good advertisement?

A. Yes, sir.

X Q. 245. What were you referring to when you put down there "Hall's Safes are the best?"

A. Our own safes entirely.

X Q. 246. That is to say, those made by the Hall's Safe Company of Cincinnati?

A. Yes, sir.

X Q. 247. Then you expected that people would understand by that advertisement that the safes which had passed through those great fires, were the same safes that you were advertising?

A. It looks that way.

X Q. 248. You intended that they should so understand it, didn't you?

A. Well, we couldn't have their understanding.

X Q. 249. I didn't say you could, but you intended that they should so understand it, didn't you?

A. We put it in there, Mr. Maxwell. They could draw their own conclusions.

232 X Q. 250. I don't want to embarrass you too much?

A. Not embarrassing me at all.

X Q. 251. Then please state whether you intended that the persons who would read this should actually so understand this advertisement?

A. If they wanted it that way.

X Q. 252. How was page 51 put in, was it also put in just to fill up?

A. Yes; so the next two pages would come opposite each other.

X Q. 253. Who framed the glowing advertisement that appears on page 51?

A. I am the glower.

X Q. 254. Did you submit that to your brother, E. C. Hall?

A. I guess so.

X Q. 255. When you say in that advertisement that a "Hall's Safe" was the cheapest form of insurance, what safe did you refer to?

A. Our own.

X Q. 256. As made by the Hall's Safe Company?

A. Yes, sir.

X Q. 257. Then why did you put down below there, "Our record of almost sixty years proves our position." That cannot refer to the safes made by Hall's Safe Company, can it?

A. It refers to the safes made by the Halls, as explained in the history of "Hall's Safes." That is another one of the pages we changed, Mr. Maxwell.

X Q. 258. Yes; Mr. Cochran told you that that was not a proper thing?

A. That it was not the proper thing; and as soon as we were told that, we left it out.

X Q. 259. Didn't you know that before Mr. Cochran told it to you?

A. There are lots of things that we know and we don't know, when we don't stop to realize that we are a little wrong.

X Q. 260. What harm would it do you to at the same time withdraw this misleading advertisement and change your name and stop all possibility of misleading?

A. There is no misleading at all in our name; we are Halls; we are making safes.

X Q. 261. What injury would it do you if you were to take some other name than "Hall's Safe Company"?

233 A. There is no occasion to take any other name.

X Q. 262. But my question is, not about what occasion there might be, but what injury would it do you to change?

A. We haven't figured on it.

X Q. 263. Do you know of any injury that it would do you?

A. Not necessarily.

X Q. 264. Why did you put on the cover of this catalogue, "Sixty years—1840-1900"?

A. For that same reason that I spoke of the history of the "Hall's Safes."

X Q. 265. That is, you wanted it to appear that the Hall's Safe Company was an ancient company with a record of sixty years?

A. We did not.

X Q. 266. What other meaning could it have?

A. On the same page referred to, the history shows what years the "Hall's Safe" was incorporated.

X Q. 267. All I see on this page is, "The Hall's Safe Company, Spring Grove Avenue, Cincinnati, U. S. A. Sixty years. 1840-1900"?

A. Yes, sir.

X Q. 268. Didn't you intend to have people understand, by seeing this catalogue, boldly and prominently, that the Company actually had a record of sixty years?

A. It would look that way. It was our intention to say that the Halls had been in the safe business for sixty years.

X Q. 269. What Halls?

A. All of the Hails—three generations.

X Q. 270. But they are all dead, excepting you and your brother, and your brothers' names do not appear in this catalogue from one page to the other?

A. They are known to all our dealers as members of the Hall's Safe Company.

X Q. 271. Who got up the "Special Notice to Dealers" marked Defendants' Exhibit 339?

A. I guess that is on me, too.

X Q. 272. Did Mr. Cochran supervise that?

A. No, sir.

X Q. 273. Did your brother see it?

A. Undoubtedly.

X Q. 274. And approved it?

A. I suppose.

234 X Q. 276. It began, "We have lately had our attention called to the fact that certain dealers who are handling our goods"——

A. Yes.

X Q. 277. Whom do you mean by that?

A. Our dealers.

X Q. 278. But this says that "certain dealers"?

A. Yes, I could not designate them now.

X Q. 279. You meant all your dealers, did you?

A. All our dealers, that is to be applied that way.

X Q. 280. The circular goes on: "are advertising in such a way as to make it appear that we are relying upon what has been to

boost our reputation." What did you mean there by "advertising in such a way"?

A. Why, what it says.

X Q. 281. What advertisements do you refer to?

A. Why, advertisements that appeared in New York, for instance.

X Q. 282. In the papers?

A. Yes, sir.

X Q. 283. You referred to advertisements that we have had offered in evidence?

A. Yes, sir.

X Q. 284. In which the advertisers referred to "Hall's Safes" as having a record of sixty years?

A. Yes, sir.

X Q. 285. That is what you referred to, was it?

A. Yes, that is what we referred to.

X Q. 286. Do you know anybody that published such advertisements except Kinsey, Ranier & Thomson?

A. I can't recall them now.

X Q. 287. Then you would not have issued a circular letter if it was only to go to Kinsey, Ranier & Thomson, would you?

A. Well, we did. At the same time, we pulled the cover off of this catalogue.

X Q. 288. Is what you referred to by the words "advertising in such a way as to make it appear," etc., on the cover of this catalogue?

A. Not necessarily—partially.

X Q. 289. Did you include them as one of the advertisers?

A. Yes, sir.

X Q. 290. Why did you send a circular to your agents about that when you, yourselves, had prepared that advertisement?

235 A. Well, we wanted them all to distinctly understand that they must advertise as "Hall's Safe Company" dealers.

X Q. 291. Why did you state there that your attention had been called to the fact that certain dealers had been doing this, when you yourselves were doing it?

A. They were doing it.

X Q. 292. You yourself, prepared those circulars?

A. They had the catalogues.

X Q. 293. Why, did you try to put it on "certain dealers," when it was you, yourselves, that had done it?

A. Now, Mr. Maxwell, we wanted to withdraw all that kind of advertising.

X Q. 294. Why didn't you come out and frankly admit that you had advertised falsely, instead of trying to put it on "certain dealers"?

A. We did not say that we had advertised falsely. We said that Mr. Cochran had told us to withdraw those covers.

X Q. 295. This don't say a word about Mr. Cochran. You do refer to advertisements as advertisements which made it appear that you are relying upon what had been, to boost your reputation. Why

did you try to put the responsibility for that on "certain dealers" when it was you, yourselves, that had done it?

A. Why, did we what, Mr. Maxwell?

X Q. 296. Why did you try to put the responsibility for this advertisement on "certain dealers" when it was you, yourselves, who had made those advertisements?

A. We hadn't made all the advertisements.

X Q. 297. Then you don't refer, in this circular, to advertisements that you are responsible for, do you?

A. We are not responsible for any advertisements except as appears on that catalogue and in the catalogue.

X Q. 298. But you don't say a word about those. You were referring to this circular and only to advertisements that you were trying to put in "certain dealers"?

A. Yes, sir.

X Q. 299. Now, is that all you meant to refer to?

A. That is what we referred to.

X Q. 300. Who were the dealers that had made those advertisements?

A. I will have to look that up, Mr. Maxwell.

X Q. 301. Can you tell me now?

A. I cannot. I told you one.

236 X Q. 302. Did you have any correspondence with Kinsey, Ranier & Thomson on the subject?

A. No, sir; not other than the circular.

X Q. 303. Is that all you said to Kinsey, Ranier & Thomson?

A. That is all I know we said.

X Q. 304. That is all you have any knowledge of saying?

A. That I could swear to having been said.

X Q. 305. Did your brother tell you that he had said anything to them?

A. He did.

X Q. 306. Did he write it to them?

A. I could not say.

X Q. 307. Did he tell you that he had written to them?

A. He didn't say.

X Q. 308. Did he tell you that he had said something to them orally about that advertisement?

A. Yes, sir.

X Q. 309. Now, these advertisements of Kinsey, Ranier & Thomson were only what you yourselves had advertised in your catalogue, only not so bad, were they not?

A. Why, nothing to do with the newspaper part of it.

X Q. 310. But Kinsey, Ranier & Thomson had only copied what you yourself had out in your catalogue, didn't they?

A. As I told you a little while ago, Mr. Cochran had ordered those things taken off, and we took them off.

X Q. 311. Are you a stockholder in the Hall Safe & Lock Company of Illinois?

A. Yes, sir.

X Q. 312. Do you know that formerly agents of the Herring-Hall-

Marvin Company organized a company in Illinois called the Hall's Safe & Lock Company—don't you?

A. Yes, sir.

X Q. 313. And that is a company in which you have stock?

A. Yes.

X Q. 314. And you know that they for years advertised themselves as Hall's Safe & Lock Company?

A. Yes, sir.

X Q. 315. And you sold them your product?

A. Yes, sir.

237 X Q. 316. They were selling agents in Chicago, were they not?

A. They were not. They were our dealers.

X Q. 317. You had no other representatives there than that concern?

A. No, sir.

X Q. 318. Your brother, Edward C. Hall, was also a stockholder in that concern?

A. He was.

X Q. 319. And the stock which you and your brother held in that Illinois corporation, you held for the benefit of the Hall's Safe Company of Cincinnati, didn't you?

A. Yes, taken for a debt.

X Q. 320. Did you have any communication with those former agents of Herring-Hall-Marvin Company at the time they organized the Hall's Safe & Lock Company of Illinois?

A. No, sir.

X Q. 321. Did you have any shortly afterwards?

A. The first intimation that we had of the organization was an order signed by the Hall's Safe & Lock Company, accompanied by a letter.

X Q. 322. You are referring to a letter which you got from Chicago from this newly organized concern, are you?

A. Yes, sir.

X Q. 323. What did you do?

A. We filled the order.

X Q. 324. What did you do about their use of the name "Hall's Safe & Lock Company"?

A. Personally, I did nothing.

X Q. 325. Didn't you have any discussion with anybody about it?

A. Yes.

X Q. 326. Tell us what you did?

A. The order was received. We took the matter up with Mr. Thomas McDougall as to the name. In the conference I told Mr. McDougall and Mr. E. C. Hall, my brother, that we had no rights, or we had no business to allow them to use that name, as it was our name.

X Q. 327. The Thomas McDougall to whom you refer, was your counsel in Cincinnati, now deceased?

A. Yes, sir.

X Q. 328. And you went, or your brother went, to counsel with him?

A. We both went.

238 X Q. 329. You both went, you and your brother went to consult with Mr. McDougall, to secure his assistance in preventing them from using that name?

A. To get his opinion.

X Q. 330. For the purpose of preventing them from using the name?

A. That was the idea.

X Q. 331. Why did you object to those people in Illinois using the name "Hall's Safe & Lock Company?

A. Because it was too near our name.

X Q. 332. Too near? In what way?

A. We were incorporated as Hall's Safe Company, and theirs was Hall's Safe & Lock Company.

X Q. 333. You would consider those names so close to each other that you——

A. We could not countenance that.

X Q. 334. Who were the persons who organized that company?

A. I don't know all *af* them. I think I could name three, A. L. Dean, J. W. Donnell and George Merrick.

X Q. 335. Dean and Donnell had been agents in Chicago of the Hall's Safe & Lock Company, and then of the Herring-Hall-Marvin Company, hadn't they?

A. Yes.

X Q. 336. And Mr. Merrick, was their attorney?

A. Yes.

X Q. 337. Held only a few shares?

A. I know nothing about the number of shares each of them had. At that time we had no stock in the institution.

X Q. 338. But you protested against their using that name?

A. I personally did in the conference.

X Q. 339. What did your brother, E. C. Hall, say about it?

A. He wrote them.

X Q. 340. In this conference with Mr. McDougall, did he protest against their using the name?

A. I don't know as he did.

X Q. 341. Did he acquiesce in your protest?

A. No.

X Q. 342. Did he agree that they should use the name?

A. Under certain limitations.

X Q. 343. I mean, in the conference with Mr. McDougall?

239 A. Under certain limitations, that they would handle our product exclusively.

X Q. 344. You objected to their using the name of Hall's Safe & Lock Company unless they would sell exclusively safes of Hall's Safe Company of Cincinati?

A. I objected all the way through.

X Q. 345. You objected to the using it under any circumstances?

A. Yes.

X Q. 346. What did Mr. McDougall tell you about that?

A. He said he saw no harm in it, provided they handled our goods exclusively.

X Q. 347. Accordingly, did you have a correspondence——
A. I did not.
X Q. 348. Did your brother have?
A. Yes, sir.
X Q. 349. Have you seen the store in Chicago of Joseph L. Hall & Company, while A. L. Dean & Company were their agents, and while A. L. Dean & Company were the agents of Hall's Safe & Lock Co.?
A. I don't believe that A. L. Dean was known to Joseph L. Hall & Company.
X Q. 350. You mean that they became agents after Hall's Safe & Lock Company was formed?
A. A long while afterwards.
X Q. 351. You have seen the store?
A. Yes, sir.
X Q. 352. How recently did you see it?
A. Oh, probably three or four months ago.
X Q. 353. What signs were on that store when they were agents for the Hall's Safe & Lock Company?
A. Well, I don't remember what names were on the store when they were agents for Hall's Safe & Lock Company.
X Q. 354. Let me ask you if the following were not displayed in large letters, "Hall's Safes," "Hall's Safe & Lock Co."?
A. I guess those two names were on there.
X Q. 355. And those names continued to remain and be displayed until very recently, din't they?
A. The last time I saw the store the name "Donnell's Safe Company" was on the windows, "Dealers in the Hall's Safe Company's Safes."

X Q. 356. I believe that you are aware that the United
240 States Court in Chicago made an order about those signs, are you not?
A. To a certain extent.
X Q. 357. That was within the past few months?
A. Yes, sir.
X Q. 358. But prior to that time, hadn't the old signs remained there "Hall's Safe & Lock Company," and "Hall's Safes," just as they were in the time of the original Hall's Safe & Lock Company?
A. Now, Mr. Maxwell, I don't know as I can recall the old Hall's Safe & Lock Company's store. I think it was about '92 or '93 that A. L. Dean & Company moved to Wabash Avenue and there they had the name, I think, of "Hall's Safe & Lock Company," on the window.
X Q. 359. And "Hall's Safes"?
A. And "Hall's Safes."
X Q. 360. And those names continued to appear on the window until the recent order of the United States Court at Chicago, didn't they?
A. I think so.
X Q. 361. And you visited there frequently?
A. On Wabash?

X Q. 362. And saw those names?

A. Yes.

X Q. 363. And while those people were your sole representatives in Chicago they continued to display those names?

A. Yes, sir.

X Q. 364. And you know it?

A. Yes, sir.

X Q. 365. Did you ever say anything to them about it?

A. They owned—they incorporated their company, Hall's Safe & Lock Company, and I don't know what we could have said towards taking down their own signs.

X Q. 366. You know very well you said nothing; on the contrary, you acquiesced in their use of that name in consideration of their selling your safes, didn't you?

A. That was their corporate name.

X Q. 367. You acquiesced in their using it in consideration of selling your safes, didn't you?

A. That was the correspondence.

X Q. 368. Is the St. Louis Safe & Desk Company of St. Louis your representative there?

A. They are our dealers.

X Q. 369. When they put on their letter-heads, as they do, on Exhibit No. 373, which you offered in evidence, a statement
241 that they are agents for Hall's Safes, you understand that to mean that they are agents for your safes?

A. They are not agents at all. They are dealers. They buy the goods outright.

X Q. 370. They are agents in that sense, that they handle——

A. They handle Hall's Safes, made by the Hall's Safe Company.

X Q. 371. And when they speak of "Hall's Safes," on this letter-head——

A. They speak of "Hall's Safe Company's" safes.

X Q. 372. They do not say so. They do not say a word about Hall's Safe Company's safes?

A. I didn't say it did, Mr. Maxwell.

X Q. 373. Do you understand, then, that when they use the expression, "The Celebrated Hall's Safes," that they mean your safes?

A. Undoubtedly.

X Q. 374. And when they say they are agents for "Hall's Safes" they mean that they are agents for your safes?

A. Yes, they are dealers for our company.

(It is now agreed between counsel for complainant and counsel for defendants that copies heretofore produced as Defendants' Exhibits Numbers 268, 269, 274, 276, 279, 280 and 281, respectively, have been by counsel for Complainant compared with the originals thereof, and that the aforesaid exhibits have been found to be exact copies of said originals.)

The cross-examination of the witness, W. H. Hall, not being at this time concluded, by consent, the further taking of these depositions and the further examination of said witness is adjourned until 10:00 o'clock, A. M., Tuesday, February 21, 1905.

Office of W. C. Cochran, Johnston Bldg.,

CINCINNATI, TUESDAY, *February* 21, 1905.

Met pursuant to adjournment, at 10 o'clock A. M., same parties present.

Whereupon, the witness, W. H. HALL, resumed the stand, and his cross-examination proceeded, by Mr. Maxwell:

242 X Q. 375. Will you produce the catalogues of the Hall's Safe Co. for which I inquired yesterday?

A. That is the first catalogue I think (handing examining counsel catalogue now marked as "Plaintiff's Exhibit No. 43"), and that is the second catalogue (handing examining counsel catalogue now marked "Plaintiff's Exhibit No. 44"); and that is the catalogue of 1904, (handing to examining counsel catalogue now marked "Plaintiff's Exhibit No. 45").

X Q. 376. Does the name of Joseph Hall & Bro., or any individual name appear in either of these catalogues (referring to last three above mentioned catalogues)?

A. I would say not, Mr. Maxwell.

X Q. 377. Will you also produce one of the 8-page circulars to which you referred yesterday?

A. Yes, sir, here it is. (Producing to examining counsel same, now marked as "Plaintiff's Exhibit No. 46").

X Q. 378. When was that circular issued (referring to above Plaintiff's Exhibit No. 46).

A. I cannot give the exact date, Mr. Maxwell. They are looking for those up at the office now; but is was printed during the year 1902.

X Q. 379. Was that before or after the expurgated edition of your general catalogue of 1902?

A. That was about the same time.

X Q. 380. Does your company have agencies outside of the United States?

A. They have dealers outside of the United States.

X Q. 381. Where?

A. In various places. In China, Japan, Manila, South Africa, Mexico, Australia and New Zealand.

X Q. 382. When did you establish these agencies?

A. At various times. They are not agencies. They are parties to whom we sell the goods.

X Q. 383. When did you establish the first?

A. I could not tell you without referring, Mr. Maxwell.

X Q. 384. Could you give us the dates when you established any of these agencies?

A. Oh, I could guess at it offhand.

X Q. 385. What is your recollection?

A. Oh, early in the commencement of our business.

X Q. 386. What catalogues and advancements had you in use in connection with those agencies?

A. Oh, I could not positively—we could probably find out by looking up just what we have sent to them.

243 X Q. 387. I am referring now to catalogues and advertisements; did you send your general catalogue?

A. Why, the presumption is we sent them whatever catalogue we had on hand at that time.

X Q. 388. When and where did your father go into the safe business?

A. In Pittsburg, so tradition tells us. What year I could not state positively.

X Q. 389. Have you any knowledge of the year?

A. Well, that was long before I was born, Mr. Maxwell.

X Q. 390. Under what name did he go into business in Pittsburg?

A. I think it was the name of E. & J. Hall.

X Q. 391. How long did he continue in business there?

A. I could not tell you.

X Q. 392. You have no knowledge on the subject?

A. No knowledge on the subject, no definite knowledge.

X Q. 393. What is your understanding?

A. To tell the truth, the question has never come up to me just how long he was in business there.

X Q. 394. What was E. Hall?

A. His father.

X Q. 395. Was his father in the safe business prior to that time?

A. I couldn't tell you that.

X Q. 396. Have you any knowledge or tradition on that subject?

A. No, sir.

X Q. 397. Your understanding is that your father and his father went into the safe business together in Pittsburg, isn't it?

A. Yes, sir.

X Q. 398. Was that in 1849, according to your understanding?

A. I think it was a long while before that, Mr. Maxwell.

X Q. 399. Why do you think so?

A. Because it has alway been my impression that father and his father moved their factory to Cincinnati in 1847.

X Q. 400. Did your father and his father continue in business in Cincinnati?

A. Yes, sir.

244 X Q. 401. Under what name?

A. E. Hall & Co.

X Q. 402. For how long?

A. I couldn't say. That is before my time.

X Q. 403. Then all you know about your grandfather's having been engaged in business is by tradition?

A. By tradition.

X Q. 404. Where did you get that?

A. Why, ordinarily in the family, as people usually get those historical—hardly facts—they are facts to a certain extent.

X Q. 405. Do you know how extensive that business of E. Hall & Co. was at Pittsburg?

A. Have you no means of knowing, have never seen their books in any way.

X Q. 406. Do you know how extensive it was in Cincinnati?

A. I don't.

X Q. 407. How long did your grandfather remain in the business?

A. I couldn't say that.

X Q. 408. You have no knowledge on the subject?

A. No knowledge on the subject.

X Q. 409. When was the firm of Joseph L. Hall & Co. formed?

A. I couldn't tell you that. That was before my time in the safe business.

X Q. 410. You have no knowledge or information on the subject?

A. No, sir.

X Q. 411. Why did you state on page 21, of Plaintiff's Exhibit No. 18, that it was in 1860?

A. Because Joseph L. Hall & Co., were in existence about that time, to my best recollection.

X Q. 412. Well, they were in existence long before that time were they not?

A. Yes, sir, the presumption is—I don't know.

X Q. 413. Then if that was not your presumption or understanding, why did you state that their business was established in 1860?

A. Does it say "established"?

X Q. 414. Yes, look for yourself? (handing).

A. Merely to get a date in, that is——

X Q. 415. You were not particular about whether it was a true date, or not?

245 A. We endeavored to get a date of the time they were in business.

X Q. 416. You know perfectly well that E. Hall & Co. were not in business for twenty years, didn't you?

A. I didn't.

X Q. 417. What information had you, to make you suppose that E. Hall & Co. had been in business for twenty years?

A. I didn't necessarily say that they were in business for twenty years.

X Q. 418. You state in this history of Hall's Safes that E. Hall & Co. was established in 1840, that Joseph L. Hall & Co. was established in 1860?

A. Yes.

X Q. 419. Did you mean to create the impression by that that E. Hall & Co. had carried on the business for twenty years, from 1840 to 1860?

A. We didn't mean to create any impression, Mr. Maxwell, other than to say that E. Hall, our grandfather, was in business about 1840, and Joseph L. Hall, our father, was in business about 1860, and we incorporated in 1896.

X Q. 420. Why did you not on that page put in the name of The Hall's Safe & Lock Co.?

A. Because The Hall's Safe & Lock Co. was not an ancestor of either one of us.

X Q. 421. Was there anybody by the name of Hall connected with the Hall's Safe & Lock Co. of Illinois, concerning which you have testified yesterday?

A. At the time they incorporated?

X Q. 422. At any time?

A. As I told you yesterday, E. C. Hall and myself held stock in the Hall's Safe & Lock Co. for the Hall's Safe Co. That stock was taken for a debt of A. L. Dean & Co. merely.

X Q. 423. When was it taken?

A. I should judge about a year or a little more after the Hall's Safe & Lock Co. was organized.

X Q. 424. Please give us the year?

A. I would say it was in the neighborhood of 1899. I may be mistaken.

X Q. 425. You and your brother have held stock in that company from that time to then, have you?

A. No sir, I have held stock from that time to now.

X Q. 426. You hold it on behalf of Hall's Safe Co. of Cincinnati, do you?

A. I will correct that answer. I held the stock in the
246 Hall's Safe & Lock Co. up to the time that the Hall's Safe & Lock Co. went out of existence, meaning the Hall's Safe & Lock Co. of Illinois.

X Q. 427. You mean till it was put out of existence in the last few months by a decree of the Circuit Court of the United States, do you?

A. Till it went out of existence under the circumstances.

X Q. 428. Well, you mean it went out of existence in the past months, do you?

A. Yes, sir.

X Q. 429. You know it was put out of existence by a decree of the United States Courts?

A. That is the presumption, yes.

X Q. 430. There never was anybody by the name of Hall connected with that Illinois concern except you and your brother?

A. Not to my knowledge.

X Q. 431. When you and your brother acquiesced in their use of the name "Hall's Safe & Lock Co." in consideration of their selling your product there was nobody of the name of "Hall" connected with it?

A. When the company was first organized there was nobody by the name of Hall connected with it so far as I know.

X Q. 432. Please answer my question, which is whether at the time you and your brother protested and then consented to their using the name "Hall's Safe & Lock Co." in consideration of your selling them safes, there was nobody by the name of "Hall" connected with the concern?

A. I cannot answer that question that way, Mr. Maxwell, because I never consented either verbally or in writing.

X Q. 433. I am referring to the time when you say you and your brother had a conference with Mr. Thomas MacDougall, and made an arrangement with the Hall's Safe & Lock Co.; was there anybody then by the name of "Hall" connected with that concern?

A. As I have stated, there was nobody connected with the Hall's Safe & Lock Company up to the time we took stock for a debt, so far as I know, by the name of "Hall."

X Q. 434. You gave your deposition on behalf of the Hall's Safe & Lock Co. of Illinois in the suit brought against them by the Herring-Hall-Marvin Safe Co. in the United States Court in
247 Chicago; and I refer to a deposition given by you at Cincinnati in that cause on December 28, 1904—did you not?

A. About that date. I think is proper.

X Q. 435. I call your attention to a copy of your deposition in that case, page 426, and ask you whether you testified as follows, with respect to your selection of the name "Hall" in connection with the corporation which you and your brother formed in 1896, being the defendant corporation:

"Question (by Mr. Aldridge, counsel for Herring-Hall-Marvin Safe Co.). I am asking you now simply whether or not you didn't know enough to know that the word "Hall" owing to its long use for more than half a century in the safe business had a peculiar value in connection with that trade? You knew it had, didn't you?

"Answer. Why, of course we knew it had, I knew it had."

"Question. Then you desired to avail yourself of any such benefits as might pertain to that name in re-embarking in business, did you not?"

"Answer. So far as my experience in the safe business was concerned, yes."

"Question. And you had had sufficient experience in the safe business to be thoroughly acquainted with the value of the name as it had been used by your father and the companies with which your father and yourself and your brothers had been associated for so many years?

"Answer. I would have been very foolish not to have known that.

"Question. You could not have been ignorant of that fact, could you?"

"Answer. No, sir."

Did you so testify in that case?

A. I think so.

X Q. 436. According to your testimony there were no signs on the building in Cincinnati from the spring of 1894 to the summer of 1895; is that your recollection?

A. That is my recollection.

X Q. 437. Was anything said about having no signs on the buildings during that time?

A. Not that I am aware of.

X Q. 438. Do you recollect yourself that there were no signs during that period of more than a year?

A. My recollection is that the signs were painted out.

X Q. 439. And that there were no signs on the building for a period of more than a year?

248 A. That is my recollection.

X Q. 440. And there was nothing said about that circumstance?

A. Not that I can recall.

X Q. 441. No reason that you know why the signs should not be there?

A. Only that the spaces were left to have a new sign in case they wanted to put it on.

X Q. 442. Was there any discussion about what the new sign should be?

A. There had been discussion, yes, sir.

X Q. 443. What was the discussion?

A. Well, in June of '95 a resolution, or a change in the by-laws passed by the Board of Directors——

X Q. 443*a*. But prior to 1895—in 1894, when the signs were painted out, was there any discussion about putting on new signs and what those signs should be?

A. Not that I remember.

X Q. 444. Was it a pure accident then that there were no signs on the buildings for more than a year?

A. Possibly.

X Q. 445. You don't recollect anything being said on the subject?

A. No, sir.

X Q. 446. Any reason why there should not be any signs there?

A. I don't recollect anything being said on the subject.

X Q. 447. Nor any discussion about what signs should be put there?

A. Not at that time?

X Q. 448. The first discussion as to the sign that should be put up was in 1895?

A. That is when they changed the name under which they were going to run their business.

X Q. 449. You refer to the resolution passed by the Directors of the Herring-Hall-Marvin Co.?

A. Yes, sir.

X Q. 450. Was there any discussion on that subject prior to the meeting of the Board of Directors?

A. Oh, yes.

X Q. 451. Where?

A. Mr. Marvin had agitated the subject at different times.

X Q. 452. With you?

249 A. Not necessarily.

X Q. 453. In your presence?

A. I think so.

X Q. 454. Where?

A. Well, I think—I could not say as to the exact location. My impression, that part of that discussion was over the dinner table, but just where now I can't remember.

X Q. 455. Was it at a meeting of the Directors for officers?

A. No, sir.

X Q. 456. Was it at a social gathering?

A. That is the presumption.

X Q. 457. Who were present?

A. I don't remember now. Probably most of the Board.

X Q. 458. Where was this?

A. I was in New York City.

X Q. 459. What was it that Mr. Marvin said on that subject?

A. He had been talking of his brother being connected with the National Biscuit—I think was the name of the company—and that their different departments or branches or companies that organized the American or National Biscuit Company were running under their old name, and doing business under their old name.

X Q. 460. And he was in favor of adopting the same course with respect to the Herring-Hall-Marvin Co.?

A. Yes, sir, to try to convince the public that it was not a trust.

X Q. 461. Was that what he said?

A. That was his understanding and our understanding, that was what he was driving at.

X Q. 462. The dividend had been passed at that time, I believe?

A. Oh, yes.

X Q. 463. And the officers of the Company were in some concern on that subject, weren't they?

A. Well, the Eastern members of the Board appeared to have some concern.

X Q. 464. Did you have none?

A. Not particularly.

X Q. 465. That is, you were indifferent to the fact that the company was unable to pay its dividends?

A. We will call it indifference.

250 X Q. 466. Were you anxious to have the business conducted successfully so that a dividend might be paid.

A. Yes, sir.

X Q. 467. And those discussions were on that subject, were they?

A. Yes, sir.

X Q. 468. You testified on this subject in the deposition you gave in the Chicago case, didn't you?

A. I couldn't recall it, Mr. Maxwell, without seeing the deposition.

X Q. 469. I will show you the copy of your deposition in that case, and ask you if you testified as follows: (pages 389, 390.)

"Question. State whether, if at all, during that term of employment from 1892 to 1896 there was ever any discussion with reference to the use of the names of the old constituent companies upon the plants or stores or buildings operated and controlled by the Herring-Hall-Marvin Co.?

"Answer. Yes, there was a good deal of discussion during 1894 and 1895.

"Question. Will you state in your own way what that discussion amounted to, how it arose, and what was done as the resuelt of that discussion?

"Answer. I think it arose through Willis Marvin, or W. B. Marvin, I think he is called, his factory was closed either in 1893 or 1894, and of course that cut off a good deal of income from Mr. Marvin. He wanted to get even with the Western management, and he began knifing to get the Western management out. He agitated the question of a Voting Trust, which finally went through."

Did you so testify?

A. I think I did.

X Q. 470. What did you mean by the statement that "he began knifing to get the Western management out"?

A. He was continually finding fault with the way the company was managed and he thought that by having the management divided between the Eastern and Western members of the Board they could run a more successful business.

X Q. 471. Then by "knifing" you referred to his complaints against the Western management, did you?

A. I think so.

X Q. 472. That was the management of your brother and yourself, was it?

251 A. And Mr. Pullen, the present President of the Herring-Hall-Marvin Co.

X Q. 473. You say he was trying to get the Western management out?

A. Yes, sir.

X Q. 474. Now you say that what he wanted was to have the Eastern management different from the Western management?

A. Yes, sir.

X Q. 475. Well, was that what he wanted?

A. He did both of them. He succeeded in getting the Western management out of control of the business.

X Q. 476. That is, you mean your brother and yourself?

A. No, sir, I was not in the management.

X Q. 477. Whom do you refer to?

A. Mr. Pullen was the other manager.

X Q. 478. Mr. Richard Dymond was made President?

A. Later.

X Q. 479. And at the time of this change?

A. At the time of the change, yes, but not while the discussion was going on at the beginning.

X Q. 480. Now, your brother, Edward C. Hall, and Richard T. Pullen, were made Western managers, weren't they?

A. Yes, sir.

X Q. 481. Then he did get your brother out?

A. He got him out of the presidency.

X Q. 482. And put in a Western man as President?

A. Yes, sir.

X Q. 483. Mr. Richard Dymond, a well known Cincinnati man?

A. Well known Cincinnati man.

X Q. 484. Now, what did the separation of the management between the Eastern and the Western business have to do with the adoption of the name "Hall's Safe & Lock Works?"

A. It had nothing to do with it other than at that time the name "Hall's Safe & Lock Works" was put on the buildings in Cincinnati.

X Q. 485. And it was also adopted as the title under which the business was run in the West?

A. In the West; and the Herring's Safe Works and Marvin's Safe Works, was put on the Eastern buildings.

X Q. 486. For the purpose of identifying the business with the former concern?

252 A. For the purpose really of trying to deceive the public.

X Q. 487. In what way?

A. In letting them imagine that each one of the old concerns were running their own business.

X Q. 488. Then that was the purpose of that change and the adoption of the words "Hall's Safe & Lock Works," to let the public understand that it was the old concern, the Hall's Safe & Lock Co., that was running the plant, was it?

A. That was the understanding.

X Q. 489. And that plan was adopted for that purpose?

A. Undoubtedly.

X Q. 490. To get the benefit of the standing of the old Hall's Safe & Lock Company, was it?

A. I don't think so much to get the benefit as to try and deceive the public.

X Q. 491. Well, to get the benefit by deceiving the public?

A. By deceiving the public.

X Q. 492. And Mr. Marvin had stated that the National Biscuit Company carried on the business of its separate branches under the old names, did he?

A. That was my understanding.

X Q. 493. And that they had found that that was a beneficial arrangement?

A. They had deceived the public to that extent?

X Q. 494. That is, the public who had previously bought from the old concerns, dealt with the new concern, supposing that they were dealing with the old concern?

A. That was Mr. Marvin's theory.

X Q. 495. That was your purpose in using the name, "Hall's Safe & Lock Works," was it?

A. That was the purpose of the Herring-Hall-Marvin Co. in using the name.

X Q. 496. To have the public believe that they were dealing with the old Hall's Safe & Lock Co., was it?

A. That is the presumption.

X Q. 497. And you knew that that was the object of adopting the name Hall's Safe & Lock Works, did you?

A. Yes, sir.

X Q. 498. You say you objected to signing contracts in the name of Hall's Safe & Lock Works; why?

253 A. I didn't say I objected to signing the contracts. I said I objected to signing orders for material.

X Q. 499. Why?

A. For the reason that Mr. Cochran, our attorney, advised me that material coming in on orders signed in the name of the Hall's Safe & Lock Works, which was fictitious, under which I had my own signature, would be held as my order to a large extent, and would subject me to the payment of that material.

X Q. 500. And is that the reason that you objected to using the name of "Hall's Safe & Lock Works" in ordering goods?

A. That was my recollection.

X Q. 501. Did the Hall's Safe & Lock Co. have any trade name other than the "Hall"?

A. I never knew that the Hall's Safe & Lock Co., had any trade names whatever other than their corporate name.

X Q. 502. Did it have any trade-marks?

A. No, sir.

X Q. 503. Other than the corporate name put on its goods?

A. Not that I am aware of.

X Q. 504. The fact is that it marked its safes "Hall's Standard Safes," didn't it?

A. On the back.

X Q. 505. And advertised them as "Hall's Safes," and "Hall's Standard Safes."

A. "Hall's Standard Safes."

X Q. 506. You know of no trade-mark nor trade name other than that?

A. Other than their corporate name, they used the name "Hall's Standard Safes." The name "Hall" was taken from their corporate name.

X Q. 507. And they advertised extensively "Hall's Standard Safes," "Hall's Safes are the Best," and such expressions, did they?

A. They advertised with those expressions.

X Q. 508. They didn't have any symbol or mark that you would call a trade-mark?

A. Not that I am aware of.

X Q. 509. Have you a copy of the agreement between the defendant and Kinsey, Ranier & Thomson, for which I asked yesterday?

A. (Producing same, and it is now marked "Plaintiff's Exhibit No. 47").

254 X Q. 510. Attached to the bill of sale of May 12, 1892, from the Hall's Safe & Lock Co. to Cox & Segur is a statement of assets of the Hall's Safe & Lock Co. as same appeared on the books of said company, amounting to $821,971.33; was that a correct statement of your assets and the value thereof as appeared by your books? (Handing.)

A. With the exception of the memorandum attached below; "The above mentioned machinery, plant, tools, patterns, buildings and leasehold interests have been appraised at values exceeding by $193,190.40 the sums above mentioned" I believe that statement to be correct.

X Q. 511. Won't you please answer my question, which is, whether the assets of the Hall's Safe & Lock Co. at the time of the sale to Herring-Hall-Marvin Co. appeared upon the books of the Hall's Safe & Lock Co. at the valuations aggregating $821,971.33?

A. I guess that is a correct statement, Mr. Maxwell.

X Q. 512. Are sales of safes made at the factory of safe companies?

A. Sometimes.

X Q. 513. What is the general way of making sales and securing customers?

A. In our company we usually make arrangements with dealers to buy our safes at certain prices, and their orders come to us through the mail from time to time.

X Q. 514. Then the intending purchasers of safes do not come ordinarily to the factory.

A. Not as a general rule.

X Q. 515. They buy through agents or dealers who solicit them?

A. They buy through dealers in our case.

X Q. 516. That was so with the Hall's Safe & Lock Co.?

A. No, sir, not altogether.

X Q. 517. How were the sales ordinarily effected by Hall's Safe & Lock Co.?

A. The Hall's Safe & Lock Co. had some dealers. They also had some branch houses, and they had quite a number of traveling men.

X Q. 518. And they made their sales in that way?

A. They made their sales in that way.

X Q. 519. And instances were rare in which intending purchasers would come to the factory, were they?

A. Well, there were some who came to the factories, and others came to the branches.

255 X Q. 520. My question is, whether the instances were rare in which people came to the factory, or was the business there generally conducted by soliciting orders through traveling men and branch houses and dealers?

A. The proportion of sales at the factory was small compared with those made by salesmen or through branch houses.

X Q. 521. Did you apply to the Postmaster at Cincinnati and other cities to get the mail addressed to the Hall's Safe & Lock Co.?

A. Not to my knowledge.

X Q. 522. By "you" I mean by the defendant company or any one on their behalf.

A. Not to my knowledge.

X Q. 523. Did you write any letters to the——

A. Not to my knowlege.

X Q. 524. Then you never did so far as you know, ask the Post-

master at Cincinnati to deliver to you mail addressed to the Hall's Safe Company.

A. No, sir, I don't remember ever having sent or written a letter to that effect.

X Q. 525. I don't believe you understood the question. My question is, whether you or your company, or anybody for your company, by letter or otherwise, asked the Postmaster in Cincinnati to deliver to you the mail addressed to the Hall's Safe & Lock Co.?

A. Mr. Maxwell, I tried to make that as plain as I could in the other answer. So far as I know, that has never been done.

X Q. 526. Did you ever make any objection to the Postmaster delivering mail so addressed to the Herring-Hall-Marvin Co. and its successors?

A. I made a very strong objection to the way the Herring-Hall-Marvin Co. were sending in letters that they had received from the Postoffice here addressed to "Hall's Safe & Lock Co., Cincinnati," that were intended for us.

X Q. 527. Did you make that objection to the Postmaster?

A. Yes, sir.

X Q. 528. By writing or orally?

A. I think it was in writing.

X Q. 529. Will you please produce the letter.

A. I will try.

X Q. 530. You had reference to mail addressed to the Hall's Safe & Lock Co., didn't you?

256 A. Yes, sir.

X Q. 531. How could you tell whether that was intended for you or for Herring-Hall-Marvin Co.?

A. They would return it after holding it some days, wherein there was a remittance.

X Q. 532. Then your complaint was because they didn't return it promptly, not because it was delivered to the Herring-Hall-Marvin Co.?

A. That is what I said. That is what I said, because they didn't return it promptly.

X Q. 533. Can you give us the date when your company first turned out any work?

A. I think I can. It was in May, 1897.

X Q. 534. You testified that you didn't put the name "Hall's Safes" or "Hall's Standard Safes" on your product?

A. That is right.

X Q. 535. Why not?

A. Because we didn't want it there.

X Q. 536. Why didn't you want it there?

A. I cannot tell you, Mr. Maxwell, only that we didn't want it there.

X Q. 537. Was that the only reason that you didn't put it there?

A. No occasion for it to be there.

X Q. 538. Was that the only reason, because you didn't want it?

A. That is the only reason that I am aware of.

X Q. 539. Did you suppose that you had a right to put "Hall's Safes" and "Hall's Standard Safes" on your product?

A. I presumed that we had a right to put "Hall's Safes" on our product if we wanted to. We never called our goods "Hall's Standard Safes," so there was no reason to put "Hall's Standard Safes" on the goods.

X Q. 540. Oh, but there was numerous printed matter in which your safes are called, "Hall's Safes," and referred to as "Hall's Safes"?

A. That is right.

X Q. 541. Then you did call your safes "Hall's Safes"?

A. We could not do otherwise than speak of them as "Hall's Safes."

X Q. 542. You had them advertised in the New York store as "Hall's Safes."

A. We hadn't.

257 X Q. 543. Oh, but the advertisement, a copy, photograph of it is in evidence.

A. We had nothing to do with that photograph, or the advertisement.

X Q. 544. Well, do you think that was wrong to put up that advertisement on your New York store, 393 Broadway—"Hall's Safes"?

A. No, sir, I don't.

X Q. 545. You think that was right, do you?

A. If it wasn't wrong, it must have been right.

X Q. 546. Then you think it would be perfectly right and proper for you to have marked on your safes, "Hall's Safes"—"Hall's Standard Safes"?

A. Well, I don't know why we should think that was, because we have never thought of using "Hall's Standard Safes." As to "Hall's Safes" it would have been right if we had wanted to use it.

X Q. 547. Then the only reason you didn't do it was because you didn't want to use that name?

A. That's it.

X Q. 548. Then why did you use it in your advertisements—your circulars?

A. Because they were Hall's Safes.

X Q. 549. Then why didn't you put it on the safes, if they were Hall's Safes?

A. We didn't want it on the safes.

X Q. 550. But if they were Hall's Safes, why didn't you want to put it on?

A. Because we had our name on the safes and that was all we cared for.

X Q. 551. "Hall's safes" is good name, isn't it?

A. "Hall" is a splendid name.

X Q. 552. And really assists in selling a safe?

A. Yes, sir.

X Q. 553. It is the only reliable safe?

A. It is a very reliable safe.

X Q. 554. Well, I believe in one of your circulars you refer to it as the "old reliable." I refer to Plaintiff's Exhibit No. 46?

A. Yes, it is the old reliable.

X Q. 555. You said that those numerous advertisements in the New York papers which we have offered in evidence you didn't see until they were presented here in evidence; is that correct?

A. Yes, sir.

258 X Q. 556. Did you know about them before they were offered in evidence?

A. Mr. Cochran called my attention to certain advertisements that appeared. I never saw them.

X Q. 557. My question is, whether you knew about them before you saw them in evidence?

A. Only from hearsay.

X Q. 558. Did Mr. Cochran tell you he knew about them?

A. Yes, sir.

X Q. 559. How did he come to know about them?

A. He found them as exhibits in the Herring-Hall-Marvin Co., *vs.* The Hall Safe Co. case.

X Q. 560. When was that?

A. I cannot say exactly as to the date. I think it was in 1902.

X Q. 561. You say you didn't know that such advertisements were being inserted prior to Mr. Cochran's telling you about it?

A. That is what I said, Mr. Maxwell.

X Q. 562. Well, what was wrong about those advertisements, according to your views; let us take Plaintiff's Exhibit No. 5, for instance, advertisement in the New York Sun of April 15, 1901.

A. Well, to tell the truth, I don't see anything radically wrong. Mr. Cochran told us we must avoid any reference to "60 years."

X Q. 563. Then you don't see anything wrong about the advertisement Plaintiff's Exhibit No. 5?

A. Other than what Mr. Cochran told us.

X Q. 564. Then if the reference to "60 years" was eliminated from that advertisement, would you think it would be all right?

A. I would not say it was wrong.

X Q. 565. And you think it is not wrong to put in the "60 years," if I understand you?

A. Mr. Cochran said he wanted us to eliminate it.

X Q. 566. But you yourself don't think it is wrong to put in the reference about "60 years," as I understand you?

A. Well, what I think is right and wrong, Mr. Maxwell, I don't see that it cuts any figure in this case.

X Q. 567. Well, you and I can't determine that just now.

A. I am not trying to determine it.

259 X Q. 568. Won't you answer the question as to whether you——

A. I don't consider it wrong.

X Q. 569. According to your view then, Plaintiff's Exhibit No. 5 is a proper advertisement?

A. We never either paid or had that inserted.

X Q. 570. Won't you please answer my question?

A. I would not say it was out of the road.

X Q. 571. Do you see anything wrong about the advertisements, Plaintiff's Exhibits Nos. 6 and 7?

A. Other than the "60 years."

X Q. 572. But as I understand it, you don't see anything wrong about that?

A. No, I don't personally see anything wrong about it.

X Q. 573. Then according to your views, advertisements, Plaintiff's Exhibits 6 and 7 are entirely proper, are they? (Handing same to witness.)

A. Well, I have no objections to your putting it that way.

X Q. 574. And you would make the same answer, would you, with respect to the advertisements in the New York Sun, Plaintiff's Exhibits Nos. 24, 25, 26 and 27? (Handing to witness.)

A. Yes, I have no objections to those things personally.

X Q. 575. How about Plaintiff's Exhibit No. 4, being advertisement in Munsey's Magazine of December, 1901?

A. Well, I can't say that I would change my answer, Mr. Maxwell.

X Q. 576. You think that that advertisement is all right, do you?

A. Personally.

X Q. 577. That purports to be an advertisement of the Hall's Safe Co., 393 Broadway, New York. Is there any other Hall's Safe Co. at that point except your company?

A. There is no Hall's Safe Co. at that point, or anywhere in New York City. There is only one Hall's Safe Co. that I know of, that is in Cincinnati.

X Q. 578. But you are aware that the name of Hall's Safe Co. is displayed on the windows of that 393 Broadway, are you not?

A. I am aware through the photograph I saw yesterday.

X Q. 579. You have any objection to that?

260 A. I don't know why we should.

X Q. 580. Then you ratify and approve of that advertisement?

A. I don't know as I approve of it exactly; but it is advertising Hall's Safe Co.

X Q. 581. You have no objection to that?

A. To advertising Hall's Safe Co.? No, sir.

X Q. 582. By putting in that window a sign "Hall's Safe Co."?

A. I don't think there is any objection to that.

X Q. 583. By putting your name, W. H. Hall, President, and your brother's name as Treasurer?

A. I don't think there is any objection to it.

X Q. 584. Or the putting up of a sign "Hall's Safes"?

A. I don't think there is any objection to it.

X Q. 585. You make no objection to the advertisement in Munsey's Magazine, on the ground that it is advertised as the "Hall's Safe Co.," do you?

A. We did make no objection. As I have said, time and again, through Mr. Cochran's advice we eliminated "60 years."

X Q. 586. I am not talking about "60 years" now, but about the

use of the name "Hall's Safe Co." as it appears in that advertisement.

A. We never paid for or had that advertisement inserted, and we knew nothing about it until after it was shown me.

X Q. 587. You know about it now. Did you make any objection to the Kinsey, Ranier & Thomson Co. advertising the Hall's Safe Co., and the names of the officers of the Company, and Hall's Safes?

A. They should have had their own names on there and marked as dealers in Hall's Safe Co.'s safes.

X Q. 588. My question is, whether you make any objection to the use that they make of the Hall's Safe Co.

A. I don't know as an objection would do any good, Mr. Maxwell, it is on there; I don't know how we could get it off.

X Q. 589. You know your brother is President of that company and owns all the stock?

A. I don't know what he owns.

X Q. 590. You know he is President?

A. Yes, sir.

X Q. 591. You know he owns most of the stock?

A. Presumption is.

261 X Q. 592. Have you ever made any objection to him about putting up the sign "Hall's Safe Co.?"

A. No, sir, I don't know that we have.

X Q. 593. You and he are on very good terms?

A. Undoubtedly.

X Q. 594. In the advertisement, Plaintiff's Exhibit No. 4, what do you understanding the advertisement refers to when it says: "Hall's Safes, made by the oldest and foremost safe house in the world?"

A. I don't understand anything about it, Mr. Maxwell. I don't know what his idea was in making that advertising.

X Q. 595. Are you a practical safe man, you have been in the business for a third of a century; what would you understand by the statement if you saw it, "Hall's Safes, made by the oldest and foremost house in the world?"

A. Well, we should think somebody lied.

X Q. 596. What would you think they were referring to?

A. I haven't any idea what they are referring to.

X Q. 597. What is the lie that you think?

A. If they had reference to the Hall's Safe Co., it is not the oldest safe company in the world.

X Q. 598. It is one of the youngest, is it not?

A. Apparently.

X Q. 599. Now, if you were a safe man and saw an advertisement, "Hall's Safes, made by the oldest and foremost safe house in the world, established in 1841"—who would you think they were made by?

A. I would think they were made by some member of our family.

X Q. 600. Which member?

A. Well, I couldn't say, because I don't know that any of them were old enough.

X Q. 601. Would it occur to you that they were made by the Hall's Safe & Lock Co.?

A. If I was an old safe man? And I knew that the Hall's Safe & Lock Co. was out of existence for 10 or 12 years?

X Q. 602. Put in all the essentials you want.

A. Well, I am only stating my opinion, Mr. Maxwell, you asked for my opinion.

(Question now read to witness, who further answered as below):

The WITNESS: Well, I would not think they were made by any safe concern established in 1841.

262 X Q. 603. But the advertisement says, that they are made by the "oldest and foremost" safe house in the world, established in 1841."

A. Now, I knew nothing about that man's views and why he put in that advertisement.

X Q. 604. But you say the very same thing in that printed catalogue, you state that your business has been established for 60 years.

A. Yes, sir.

X Q. 605. What did you mean? I am asking your views now.

A. We didn't say that our business had been established for 60 years.

X Q. 606. You didn't mean that to be understood by your advertisement?

A. That was over "60 years."

X Q. 607. Do you or not think, Mr. Hall, that the advertisement to which I have just called your attention, Plaintiff's Exhibit No. 4, is misleading?

A. I thought then it was.

X Q. 608. And why?

A. Why? Because it speaks of a safe concern established in 1841, and there is no safe concern in existence established in 1841 that I know of.

X Q. 609. Wasn't the Herring-Hall-Marvin Safe Co. established in that time?

A. Not according to their charter.

X Q. 610. You knew that they are successors of Joseph L. Hall, don't you?

A. I know that they claim to be.

X Q. 611. You know that the business which they are now carrying on is a continuation, is a going concern without any interruption of the business established by Joseph L. Hall, don't you?

A. I don't know that only by hearsay.

X Q. 612. Was there any interruption up to the time you left it?

A. I would not say there was.

X Q. 613. What interruption do you know of since you left it?

A. They went into the hands of a receiver.

X Q. 614. Don't you know that the receivers continued the business as a going concern?

A. I know that the receivers continued the business as receivers.

263 X Q. 615. Do you not know that they continued the business as a going concern?

A. That is the presumption. They must have sold it to somebody or else be running it.

X Q. 616. Don't you know that the purchaser continued the business as a going concern without the interruption of a day or an hour?

A. I don't. I know that they did not pay their debts.

X Q. 617. I am not asking you about their paying their debts; I am asking you whether you don't know that the business purchased by Herring-Hall-Marvin Safe Co. from the receivers was continued by the purchasers as a going concern, the same place, with the same people and without stopping work for an hour.

A. I have no means of knowing it.

X Q. 618. You know nothing to the contrary?

A. No, sir.

X Q. 619. Were you as a stockholder a creditor of the Herring-Hall-Marvin Co. invited to go into the reorganization?

A. We were invited by the promoters, as we presumed, of the organization.

X Q. 620. To go in and take stock for your debt and hold stock?

A. To put up some money besides.

X Q. 621. That is, the stockholders of Herring-Hall-Marvin Co. were invited to reorganize by making a payment of an assessment on their stock.

A. That is the supposition.

X Q. 622. And you declined to go into that reorganization?

A. I did.

X Q. 623. Is the debt to which you refer in your examination that Herring-Hall-Marvin Co. owed you an individual debt, or were you referring to a debt of the Hall's Safe Co.?

A. I was referring to an individual debt.

X Q. 624. Was Mr. Pullen in Joseph L. Hall's business before you were?

A. I couldn't say, Mr. Maxwell, I think it was about the same time.

X Q. 625. And he has devoted himself exclusively to that business from that day to this, hasn't he?

A. I presume.

X Q. 626. He was one of the managers of the business after your father died?

264 A. He was one of the executors of my father's estate.

X Q. 627. He was one of the managers of the business?

A. He naturally would be.

X Q. 628. During your father's lifetime he had been intrusted by your father with important business in connection with the concern?

A. I believe.

X Q. 629. Your father regarded him as an able and upright man, didn't he?

A. I suppose so.

X Q. 630. And you did too?

A. Of course I did.

X Q. 631. He has been very faithful in his attention to the business since the day he came in there to the present time?

A. So far as I know to the contrary.

X Q. 632. And he became joint manager with your brother of the Western business of the Herring-Hall-Marvin Co. didn't he?

A. That's it.

X Q. 633. And from the time of the organization of that company he took a large and important part in the management of its business?

A. That is the presumption.

X Q. 634. After you and your brother retired he became sole Manager of the Western business, didn't he?

A. Under the Executive Committee, yes.

X Q. 635. You know that he has been one of the principal men in the management of the business since the Herring-Hall-Marvin Co. was organized? Don't you?

A. Only from hearsay, Mr. Maxwell. I am not familiar with the Herring-Hall-Marvin business.

X Q. 636. You observed it while you were with the company?

A. Well, you said after that.

X Q. 637. Well, you were with it?

A. Yes.

X Q. 638. He was one of the most active and influential men in the business, wasn't he?

A. He was a very good man.

X Q. 639. When you said that he was in a clerical capacity, you didn't quite mean that, did you?

A. Of course, I did. I was speaking of Mr. Pullen when he first started in in the Hall's Safe & Lock Co.

X Q. 640. You were not speaking of him when he became one of the business managers of the business?

265 A. Why, then he would not be called a clerk when he was Secretary of the institution.

X Q. 641. Well, Mr. Pullen is regarded as one of the foremost safe men in the United States now, isn't he?

A. Now, Mr. Maxwell, you can't get my opinion of everybody in the safe business, because I don't know it.

X Q. 642. I don't want your opinion, I want the opinion of safe men generally.

A. I never heard anybody say that Mr. Pullen was at the top of the safe fraternity.

X Q. 643. I didn't ask you whether he was at the top, I asked you whether he was not regarded by the safe men in the United States as one of the foremost engaged in the business?

A. Mr. Pullen is President of the Herring-Hall-Marvin Safe Co.

X Q. 644. And before he was President?

A. He was Acting President.

X Q. 645. And before that he was Manager?

A. I don't know anything about it. I am talking about the Herring-Hall-Marvin Safe Co.

X Q. 646. Well, you have not intended by your testimony to dis-

parage in any way Mr. Pullen's leading position and capacity and ability as a safe man, have you?

A. I have not intended to disparage Mr. Pullen in any way, shape or form. Mr. Pullen is a relative of mine—and there is no occasion for it.

X Q. 647. Aside from his being a relative, you know that he is one of the most experienced, efficient, active and respected men in the safe business in the United States, and has been for many years, don't you?

A. I don't know that he is one of the most experienced safe men in the business.

X Q. 648. Who is more experienced that he?

A. I couldn't say.

X Q. 649. Do you know anybody?

A. I am not an expert in judging safe men as to experience.

X Q. 650. Referring to Exhibit 386, do you know the Connell Hardware Co., of Connell, Washington?

A. I don't.

X Q. 651. Did you ever have any communication with them?

A. That I can't say.

X Q. 652. You intimated that they were customers of yours; how do you know that?

266 A. I think you are mistaken, Mr. Maxwell. I intimated that they were a customer of our dealer in Seattle.

X Q. 653. How do you know that?

A. Because that correspondence came from him.

X Q. 654. That is the only reason you know it?

A. That is the reason why I think so.

X Q. 655. You have no personal knowledge on the subject?

A. No personal knowledge whatever.

X Q. 656. You referred to a trade-mark. Have you copy of that trade-mark?

A. Yes, this is a copy of the trade-mark at the top of the page, on the sheet which I produce, marked "Plaintiff's Exhibit No. 48."

X Q. 657. When did you adopt that trade-mark?

A. I think, 1902.

X Q. 658. What time?

A. During the summer.

X Q. 659. Did you register it?

A. Yes, sir.

X Q. 660. Where did you place it?

A. On the front of each safe.

X Q. 661. Since 1902?

A. Yes, sir.

X Q. 662. With the name "Hall's Safe Co.?"

A. Yes, sir.

X Q. 663. Tell us all you have done about this trade-mark.

A. We put it on our printed matter.

X Q. 664. I don't see it on your catalogue.

A. It will be on the next one.

X Q. 665. It does not appear in any catalogue so far?

A. It doesn't appear on the catalogue marked "Plaintiff's Exhibits Nos. 43, 44 and 45."

X Q. 666. Why wasn't it put in your catalogue of 1904, published long after you say you adopted it?

A. 1904 catalogue, as shown by Plaintiff's Exhibit 45, is an Export Catalogue. We left it out of this catalogue for the reason that most of the catalogues, as shown by Plaintiff's Exhibit No. 45, are sent abroad to dealers, and the cost of registering trade-marks in foreign countries is too great for the use of the trade-mark in those countries, other than on the safes.

X. Q. 667. I don't discover the trade-mark on the picture
267 of any safe that you produce in any catalogue or circular. Will you please point me out some pictures of your safes that contain that trade-mark.

A. We can't, for the reason that all of these copies were made before we had the trade-mark and with one or two exceptions none of the copies show the outside of the door, on which the trade-mark is put.

X Q. 668. Then your advertisement of this trade-mark is confined to the fact that you have put it on some page circulars, and painted it on the door of your safes, is it?

A. It is on most of our stationery and on all work that leaves the factory.

X Q. 669. Since when has it been on most of your stationery?

A. Since we got the trade-mark, as fast as we could get the copies into shape, and arrange it to order a new supply of stationery.

X Q. 670. You haven't otherwise called attention to your trade-mark, have you?

A. How do you mean?

X Q. 671. Your claim is that you have adopted a trade-mark to distinguish your goods?

A. Yes, sir.

X Q. 672. I want to know how, if at all, you have called attention to the fact that that trade-mark applies to your goods as distinguished from the product of the successor of Hall's Safe & Lock Co.?

A. We put it on every piece of goods that goes out of our factory.

X Q. 673. What have you done, if anything, to call the attention of the public to the fact that the safes on which that mark appears are not the safes made by the successor of the original Hall's Safe & Lock Co.?

A. We are putting it on all new matter that has gone out in the last year, we will say with the exception of our Export Catalogue, where it is possible to use the trade-mark.

X Q. 674. Prior to the time that Mr. Marvin made the recommendation and your company adopted it of using the name "Hall's Safe & Lock Works," did you find that the public to any extent didn't know that the Herring-Hall-Marvin Co. was carrying on the business of the Hall's Safe & Lock Co.?

A. I believe the public in the large cities all knew that the Herring-Hall-Marvin Co. was carrying on the business that the old Hall's

Safe & Lock Co., Herring & Co., and the Marvin Safe Co., had formerly carried on.

268 X Q. 675. What customers has your company solicited?

A. I don't catch the drift of that question.

X Q. 677. Have you solicited custom generally everywhere where you had selling agents or dealers?

A. We presume that our dealers have solicited everybody that they knew wanted to buy a safe.

X Q. 678. Whether they had been customers of Hall's Safe Co., or the Herring-Hall-Marvin Co., or not?

A. Irrespective of where they had ever purchased safes before.

X Q. 679. I suppose you knew who the customers of Hall's Safe & Lock Co. and Herring-Hall-Marvin Co. were, did you?

A. No, sir, I didn't.

X Q. 680. You have been connected with the business for over twenty-years; didn't you know the customers of the old concern?

A. In a majority of cases purchasers of safes are not people that have bought safes continually. Some of them bought a safe once in a lifetime; and there were no regular customers in the sense of your question other than a few dealers and railroad express companies.

X Q. 681. And banks?

A. Banks bought from time to time as they needed something.

X Q. 682. Well, all of those old customers, express companies, banks, dealers and so on, of the Hall's Safe & Lock Co., the Hall's Safe Co. has solicited, has it?

A. Probably through their dealers, or by ourselves, either one or the other.

X Q. 683. You have solicited the old customers——

A. There are really no old customers.

X Q. 684. Express companies, railroad companies and banks, they are certainly.

A. They are no more old customers of Herring-Hall-Marvin than they are of the National Safe & Lock Co.

X Q. 685. Those people who were accustomed to buy or had bought from the Hall's Safe & Lock Co., or the Herring-Hall-Marvin Co., the Hall's Safe Co., has solicited, has it not?

A. Undoubtedly.

The deposition of the witness not being at this time concluded, by consent recess was taken until 2:30 o'clock this P. M.

269 Office of W. C. Cochran, Johnston Bldg.,

CINCINNATI, TUESDAY, *February* 21, 1905—2:30 p. m.

Met pursuant to recess, same parties present.

Whereupon the witness, WILLIAM H. HALL, resumed the stand, and his testimony proceeded.

Redirect examination by Mr. COCHRAN:

R. D. Q. 1. Please state, Mr. Hall, where and how the individual names of yourself and your brother were used in the business of the Hall's Safe Company?

A. On the stationery, such as letter-heads, note-heads, and on a great many of the loose cuts which are sent out to the different parties wanting to purchase safes, or to the dealers, and on some of the order blanks. I believe that covers it generally.

R. D. Q. 2. Were the individual names used on the illustrated circulars sent out in response to inquiries generally?

A. Yes, in a great many cases.

R. D. Q. 3. You have these order blanks printed, do you not, in quantities?

A. Yes, sir.

R. D. Q. 4. Please look at the paper I now show you, marked as Defendants' Exhibit No. 390, and state what that is?

A. That is what we call a loose cut, representing the No. 201 safe.

R. D. Q. 5. What is it used for?

A. It is used to send to prospective customers, showing the size and general make-up of the safe.

R. D. Q. 6. Can you state when that was printed and how long it has been in use?

A. This particular one? I don't think this one has been in use over six or eight months.

R. D. Q. 7. How long has it been your habit to print the trade-mark on such sheets or illustrated circulars?

A. I think for about a year and a half—possibly two years.

R. D. Q. 8. And to what extent have you printed the names of the officers of the Company on such printed slips or illustrated circulars?

A. It is my impression that they were printed on the illustrated circulars for at least two or three years.

270 R. D. Q. 9. Have you had any reason at any time to suppress the names of either yourself or E. C. Hall?

A. We have not.

R. D. Q. 10. While you were in the employ of Hall's Safe & Lock Company, did you personally come in contact with dealers, agents, salesmen, material men and customers dealing with the Hall's Safe & Lock Co.?

A. I did. I became very well acquainted with dealers and agents, and some customers, and most of the material men, if not all of them.

R. D. Q. 11. What were your relations with such people, pleasant, or otherwise?

A. So far as I was concerned, they were extremely pleasant.

R. D. Q. 12. Have you any idea what their feeling towards you was, and is?

A. Well, I believe their feeling was about the same as mine. They enjoyed my acquaintance, as I did theirs.

R. D. Q. 13. How many of your brothers joined with you in subscribing the articles of incorporation of the Hall's Safe Company?

A. Four brothers.

R. D. Q. 14. How many members of the family subscribed for stock in the Hall's Safe Company?

A. Including myself, seven.

R. D. Q. 15. Who besides the brothers?

A. Two sisters, Mrs. Clarke and Mrs. Kemper.

R. D. Q. 16. Did they have anything to say with regard to the name to be adopted by the Company?

A. They were all perfectly satisfied with the name.

R. D. Q. 17. Was there anything said to indicate that they would have been satisfied with another name?

A. No, there was nothing mentioned any way, shape or form regarding any other name, so far as the sisters or other brothers were concerned.

R. D. Q. 18. Do you think there would have been any objection to calling it the E. C. Hall Company?

A. I don't believe that all of them would have subscribed if we had called it the E. C. Hall Safe Company.

R. D. Q. 19. Or the "W. H. Hall Company"?

A. Or the "W. H. Hall Co.," or any other Hall Company outside of "The Hall's Safe Company."

R. D. Q. 20. Was there anything in your previous acquaintance with dealers, agents, material men, and so forth, that you met in the safe trade that had an influence on your mind when it
271 came to naming the Company that you incorporated?

A. I believe they were all friendly to both myself and my brothers; and most of them wished us success as the "Hall's Safe Company."

R. D. Q. 21. Was there any advantage in using that name so far as those people were concerned, the Hall's Safe Co.?

A. Yes; we had the reputation of a great many years as safe people; and that of itself was considerable, both as to dealers and to people wanting to sell us goods.

R. D. Q. 22. Can you state when Plaintiff's Exhibit No. 43 was published?

A. I think it is the latter part of September, 1897.

R. D. Q. 23. How many of them were published?

A. Three hundred.

R. D. Q. 24. Can you state when Plaintiff's Exhibit No. 44 was published?

A. I think that was in November, 1898.

R. D. Q. 25. How many of that catalogue was published?

A. One thousand.

R. D. Q. 26. What were Kinsey, Ranier & Thomson when you first had dealings with them?

A. They were dealers in safes made by the Hall's Safe Co.

R. D. Q. 27. Was it a firm, or corporation?

A. It was a firm.

R. D. Q. 28. Did you or E. C. Hall, or the Hall's Safe & Lock Co. have any interest in that firm?

A. Not any.

R. D. Q. 29. When did E. C. Hall first take an interest in the Kinsey, Ranier & Thomson Co.?

A. I think it was in February, 1903.

R. D. Q. 30. Did you take any interest at that time?

A. I didn't.

R. D. Q. 31. Have you ever had any interest in that Co.?

A. I have not.

R. D. Q. 32. Has the Hall's Safe Company any interest in that Company?

A. No, sir.

R. D. Q. 33. Any stock?

A. No, sir.

R. D. Q. 34. How does the Hall's Safe Company make fire-proof safes to-day, Mr. Hall; what filling do they use, etc.?

272 A. Why, they make them as we always have made them, as all safe makers make them, make them of iron sheets, with angle bands, filled with cement.

R. D. Q. 35. What gives the fire-proof quality?

A. Cement filling.

R. D. Q. 36. Is the Hall's Safe as made by your Company to-day any different in fire-proof quality from the Hall's Safe made by the Hall's Safe & Lock Co. thirty years ago?

A. I don't know why it should be.

R. D. Q. 37. Give us your reasons?

A. That is the general way of making safes, made of two sheet-iron boxes, and strengthened, and filled with cement.

R. D. Q. 38. Would a safe made by you stand the same fire test with a safe made by the Hall's Safe & Lock Co.?

A. I think so, without a doubt. I believe we make a stronger safe than the Hall's Safe & Lock Co. made years ago.

R. D. Q. 39. Did your father have a patent on this mode of manufacturing fire-proof safes at any time?

A. I never saw the patent, but I presume he did. It was called "Hall's Patent." That was the concrete filling.

R. D. Q. 40. You don't know when that patent expired?

A. No; but it was dated, I think, 1849; and it would run the usual time; even if it was twenty years, that would be 1869.

R. D. Q. 41. It was not one of the patents turned over to Herring-Hall-Marvin Company?

A. No, sir.

R. D. Q. 42. You introduced in evidence a bundle of envelopes received from the Herring-Hall-Marvin Co. containing letters which had been forwarded to them, and by them forwarded to you, you

stating that the weight of the package was about fifteen pounds; were those envelopes whole envelopes?

A. No, sir, in a great many cases—in, I think, the majority of the cases, it was merely half of the envelope, and later on we commenced preserving part of the back of the envelope to show the Hamilton post-office receiving notice stamp; so there was on an average two-thirds of the weight of the envelope if it had all been there.

R. D. Q. 43. Can you state the number of those letters received since the Herring-Hall-Marvin Company was organized?

273 A. I think it will average about 250 a year.

R. D. Q. 44. Any year more than that?

A. Oh, some years runs more; some a little less.

R. D. Q. 45. What is the general tendency, to run more, or less, as the years go on?

A. I think they are more.

R. D. Q. 46. Received from them?

A. Yes.

R. D. Q. 47. I will ask you, Mr. Hall, to produce copies of the correspondence you had with the postmaster in *in* Cincinnati last Fall?

A. Mr. Cochran, I have telephoned the office for that correspondence, and it ought to be here inside of an hour; that is all the letters that we wrote the postmaster.

R. D. Q. 48. I will ask you to look at the letter which I now show you, marked as Defendants' Exhibit No. 391, and state what that is?

A. That is a letter received from Mr. E. R. Monfort, postmaster at Cincinnati, in reply to two letters of ours, one dated September 22, and one the 29th. This letter is dated October 14, 1904.

R. D. Q. 49. Did that close the correspondence on that subject?

A. I think it did.

R. D. Q. 50. Will you produce and annex to your deposition marking same as Defendants' Exhibits Nos. 392 and 393, copies of the letters referred to in the post-master's letter?

A. Yes, sir.

Recross-examination by Mr. MAXWELL:

R. X Q. 1. I understand that all fire-proof safes are and always have been made with concrete filling?

A. You understand wrong.

R. X Q. 2. Please tell me in what respect I am in error?

A. Well, the Herring people, and the Marvin, of New York, fill their safes with a composition different from cement.

R. X Q. 3. Why do you think that all your brothers and sisters would not have been satisfied with calling your Company the "E. C. Hall Co.," or the "W. H. Hall Co.," or the "Hall Bros. Co."?

A. Why do I think? I think they wanted the name their own name, Hall, to appear without any embellishments.

274 R. X Q. 4. They wanted "Hall" pure and simple and alone, did they?

A. With the designation of the product we were making.

R. X Q. 5. You had no conversation with any of them on that point?

A. I cannot say I did.

And further deponent saith not.

(Signed) WILLIAM H. HALL.

And also, EDWARD C. HALL, of lawful age, being first duly cautioned and sworn, was examined, deposed and testified as follows:

Direct examination by Mr. COCHRAN:

Q. 1. State your name, age, residence and occupation?

A. Edward C. Hall; 54 years old; safe manufacturer; residence, Cincinnati.

Q. 2. What connection have you with the defendant Company?

A. I am President of the defendant Company.

Q. 3. What experience have you had in the safe business?

A. I have had an experience of 33, 34 or 35 years in all branches, working in the shop, managing the Company, and as President of the Company—all kinds of hard work.

Q. 4. What shop work have you done?

A. I have run machines; have built safes; worked in the cabinet shop; worked in the paint room—pretty nearly every position in the office clear up to the President, managing the finances and everything else.

Q. 5. Did you have any official connection with Hall's Safe & Lock Company?

A. I did.

Q. 6. What was it?

A. I was Vice-President from the year 1875 up till 1889.

Q. 7. Then what?

A. Then after father died I became President of it, of the Hall's Safe & Lock Company. In 1892—1891—beginning at 1890 really,
I negotiated the sale of the assets of that Company and carried
275 that clear through to the finish; became President of the new Company called the Herring-Hall-Marvin Company. Remained with them until June, 1895, as its President and Chairman of the Executive Committee.

Q. 8. You might go right along since you have started on its history; in June, 1895, what did you do?

A. In June, 1895, I was deposed from office by an arrangement. The Eastern stockholders were claiming to have a majority of the proxies, and consented to have Mr. Dymond become President of the Company in order to give the concern the appearance of a change in management on account of the defaulting in dividends. I remained with them during, for that year, in the capacity of Vice President and Western Manager of the concern—one of the Western Managers of the concern—till June, 1896, or July, 1896, when I resigned, to take effect on August 31st. My resignation was accepted. I immediately went to work and organized a new Company called the Hall's Safe Company, of which I became President. We were manufacturing safes and locks. That is the cause of the tangle, I suppose.

Q. 9. Who is your father?
A. Joseph L. Hall.
Q. 10. Who is he?
A. He was the founder of the Hall's Safe & Lock Company.
Q. 11. Who was your grandfather?
A. Edward Hall.
Q. 12. Did he have anything to do with the safe business?
A. He was in the safe business before my time, previous to 1850.
Q. 13. When did your father die?
A. March 10, 1889.
Q. 14. Have you ever been engaged in any other business than the safe business?
A. Not directly.
Q. 15. Well, in what way have you ever been?
A. Oh, I have been interested in the Consolidated Time Lock Company, now President of that Company.
Q. 16. That is a business allied to the safe business, is it not?
A. Yes, sir; I have always been in the safe business, made my reputation, etc., in that business; don't know much of anything else.
276 Q. 17. You say you were elected President of the Hall's Safe & Lock Company after your father's death; how long did you continue to serve?
A. To about the first of May, in that neighborhood, of 1892.
Q. 18. How did you get out of business at that time?
A. I resigned because I was negotiating for the sale of the Company's assets to Cox and Segur, who were at the head of a syndicate in New York who were going to buy out all the assets, tools, machinery, etc.
Q. 19. Had you already been elected President of the Herring-Hall-Marvin Company?
A. Yes, sir.
Q. 20. When you negotiated the sale of the property and assets, etc., of Hall's Safe & Lock Company to the Herring-Hall-Marvin Company, did you intend to retire from the safe business?
A. No, sir, intended to continue right along. I made a contract with them, so that if I didn't continue with them I could go into business for myself again.
Q. 21. You knew at the time the sale was made that the capital stock of the Herring-Hall-Marvin Company was $3,300,000?
A. Yes, sir.
Q. 22. And that out of that stock the Hall's Safe & Lock Company was to receive but $650,000; how did you expect to remain in the employ of the Herring-Hall-Marvin Company?
A. I expected to remain in the employment of Herring-Hall-Marvin Company from the fact that in negotiating the sale we arranged the Directors by graduation, so that I could not be taken out of there for three years. At the end of that time, if the concern was a paying concern—a dividend paying concern, the stockholders would continue to send their proxies, and there would be no removal. That was the only hope I had.

Q. 23. Had you any contract with the Herring-Hall-Marvin Company?

A. Yes, sir.

Q. 24. Have you a copy of that contract?

A. I have.

Q. 25. Please produce it?

A. That is a copy, (handing to counsel).

Q. 26. You know that to be a true copy of the contract that was signed by you?

A. I do.

277 Q. 27. What became of the signed copy?

A. The Herring-Hall-Marvin Company had that. That was deposited with the bill of sale in the Trust Company, which, as soon as they paid were turned over to them. That contract was among them.

Q. 28. Have you ever seen it since?

A. No, sir.

Mr. COCHRAN: I will offer in evidence the copy of contract above referred to and ask that it be marked "Defendants' Exhibit No. 394."

Q. 29. Did the Herring-Hall-Marvin Company comply with the conditions of that contract?

A. No, sir.

Q. 30. In what respect did they fail?

A. Before the three years was up, on account of the Company—financial condition of the Company—the Board of Directors reduced the compensation to a different amount from what the contract calls for.

Q. 31. You may state the amount, if you know?

A. They reduced it from seven thousand a year to six thousand.

Q. 32. In 1896, what was proposed with regard to your salary?

A. It was proposed at that time, on account of the condition of the Company, to reduce the salary further to five thousand.

Q. 33. Did you consent to——

A. I did not. I told them to carry out their contract, or release me.

Q. 34. Have you copies of your correspondence with the Company at that time?

A. I have.

Q. 35. Produce same and state what they are and then have them marked as exhibits in case.

A. On June 16th, I received a letter from John A. Shibley, Secretary, addressed "E. C. Hall, Esq., Hall's Safe & Lock Works, No. 225 West Pearl Street," which I now produce and will ask to have marked as "Defendants' Exhibit No. 395."

Q. 36. Who was John A. Shibley?

A. He was Secretary of the Herring-Hall-Marvin Company.

Q. 36*a*. When was he elected Secretary?

A. In February of 1896. I received a letter, which I will ask

to have marked "Defendants' Exhibit No. 396," dated June
278 26th, 1896, from John A. Shibley, Secretary. A-so, letter dated June 27th, 1896, from John A. Shibley, Secretary, which I now produce and ask to have marked "Defendants' Exhibit No. 397." Also letter dated June 29th, 1896, from Edward C. Hall, of the Executive Committee of Herring-Hall-Marvin Company, which I produce and ask to have marked "Defendants' Exhibit No. 398."

Q. 37. Were you notified of the acceptance of your resignation?

A. I was.

Q. 38. How was that notification given you?

A. That I don't remember at the present time. It is on the minutes of the meeting of 1896.

Q. 39. Was not the acceptance given at the meeting of the Executive Committee with you in this city shortly after the date of the last letter from Mr. Shibley?

A. My impression is it was, but I have not been able to find that—put it away too carefully.

Q. 40. Do you remember what Directors were to be re-elected at the annual meeting in June, 1895?

A. Mr. W. S. Rowe and Frank S. Pownall.

Q. 41. Was Frank Pownall on the Board before that time?

A. No, sir.

Q. 42. You will notice that I asked you if you remember what Directors' terms expired?

A. Oh, W. S. Rowe and John Farrell.

Q. 43. Who was W. S. Rowe?

A. He was Cashier of the First National Bank of Cincinnati.

Q. 44. How did he come on the Board originally?

A. He was asked to go on by myself.

Q. 45. He was the first of the Directors selected by the Hall interests whose terms expired, wasn't he?

A. Yes, sir.

Q. 46. Did you have the votes or proxies of a majority of the stockholders by which to re-elect him on this occasion?

A. We did have until about two weeks before the election, when the Eastern contingent sent out for proxies and used every exertion to get same, and at the preliminary meeting before the annual meeting, which was held at the Fifth Avenue Hotel on the night pre-
vious, Mr. Lawrence, Mr. Marvin, Mr. Farrell, Mr. John H.
279 Davis, Mr. Wright Pownall, Mr. Frank O. Herring, the Eastern contingent, stated that they had got later proxies than the ones that I held, and if I would agree to certain changes they would turn them all over to me.

Q. 47. And if not?

A. And if not they would put in new officers of the Company.

Q. 48. And Directors?

A. New Directors of the Company, it should be. I didn't agree with them at that time, or that night, but about midnight they telegraphed me to know if I would not have a conference in the morning between my attorney and their attorney to see if they could not patch

up some kind of a compromise, which I afterwards agreed to, and that compromise was that we were to change the nominal head of the Herring-Hall-Marvin Company, put in Mr. Dymond as the President of the concern, and to change the Treasurer and move the headquarters to New York. We afterwards compromised by keeping the headquarters here and electing John H. Davis, agreeing to elect John H. Davis as Treasurer, Mr. Dymond to the Presidency, and they put me in as First Vice President. Among the changes were the changes of management of the Eastern and Western division-, putting Mr. Pullen and myself in as Managers of the Western division and Mr. Willis B. Marvin and Mr. Wright D. Pownall as Managers of the Eastern division.

Q. 49. I will ask you whether or not you understood that a consent to this arrangement was necessary to the re-election of Mr. Rowe?

A. That was the contingency under which I agreed.

Q. 50. After the division of the management into Eastern and Western did you and Mr. Pullen have anything further to do with any other business of the Company except that of the branch here in Cincinnati?

A. No, sir.

Q. 51. And the Western branches and stores allied to this Company?

A. To the Western Division, yes, sir.

Q. 52. Your brother W. H. Hall ceased to be an officer of the Company at that meeting, did he not?

A. Yes, sir, an officer.

Q. 53. How long after that was it before Mr. Pullen ceased to be an officer of the Company; he was re-elected Secretary in 1895?

A. Yes, sir.

280 Q. 54. Now how long did he hold the position of Secretary?

A. Till February of 1896.

Q. 55. Was he requested to resign at that time as Secretary?

A. He was requested to resign at that time as Secretary.

Q. 56. What was done in February, 1896, Mr. Hall, or March, 1896, with reference to the management of the Company?

A. It was placed in the hands of a Voting Trust. The stock was all in the hands of the Voting Trust.

Q. 57. Still, the trust did not manage the Company. Who was selected to manage the Company from March, 1896, on?

A. Why, the Executive Committee, consisting of William Mosler, Moses Mosler and Francis Carpenter.

Q. 58. Were they old Directors and stockholders of the Herring-Hall-Marvin Company?

A. No, sir, they were Directors and officers of the Mosler Safe Company.

Q. 59. Did they continue as Directors and officers of the Mosler Safe Company?

A. Yes, sir.

Q. 60. Did they at the same time continue to have absolute control of the Herring-Hall-Marvin Company?

A. Yes, sir.

Q. 61. As an Executive Committee?

A. Yes, sir.

Q. 62. In other words, they took the place formerly occupied by yourself, R. T. Pullen and Frank O. Herring?

A. Yes, sir.

Q. 63. How soon after the election of the Moslers and F. W. Carpenter as the Executive Committee to manage the Herring-Hall-Marvin Company did you hear of the project to move to Hamilton, Ohio?

A. Almost immediately afterwards.

Q. 64. What did you hear about it?

Mr. MAXWELL: I object to the question, on the ground that it calls for hearsay testimony; also on the ground that the inquiry is immaterial to the issues in this case.

A. I got word from New York for myself, Mr. Pullen and Mr. Cory to go up to Hamilton and attend a banquet that the Citizens' Committee up there were going to give for the purpose of
281 enthusing the people, in order to get them to subscribe to a fund which was to be used as a bonus to induce Herring-Hall-Marvin Company to move to Hamilton.

Q. 65. Did the Moslers have anything to do with that meeting?

A. They were on the Executive Committee who issued the order. They were also interested in the real estate deal in Hamilton who owned the ground upon which the new factory where the Herring-Hall-Marvin Company had been agreed upon.

Q. 66. How do you know that fact?

A. I learned that afterwards.

Q. 67. From whom—did you hear it from the Moslers or either of them?

A. I think I heard it from both of them, and other people besides; but who they were, now that is a long time ago.

Mr. MAXWELL: I move that the testimony be excluded on the ground that the witness is repeating hearsay, and it is a subject not material to the issues in this case.

Q. 68. What changes, if any, were made in the signs on the buildings and store-rooms of Hall's Safe & Lock Company, the Herring Company and the Marvin Safe Company after they were turned over to the Herring-Hall-Marvin Company?

A. The signs were all changed to the Herring-Hall-Marvin Company.

Q. 69. With reference to the factory buildings in Cincinnati, what changes were made?

A. They were changed to Herring-Hall-Marvin Company.

Q. 70. How were they changed?

A. By painting out the "Hall's Safe & Lock Company" and putting in the Herring-Hall-Marvin Company.

Q. 71. Was that on all of the buildings?

A. Yes, sir.

Q. 72. How about the store in the Burnet House?

A. The sign at the Burnet House was originally Hall's Safe & Lock Company. It was taken down and hauled to the factory and changed there and taken back and put up.

Q. 73. In May, 1892, did the Hall's Safe & Lock Company have a store in New York City?

A. Yes, sir.

Q. 74. What was done with that store?

282 A. That store was abandoned immediately after the organization of the Herring-Hall-Marvin Company, as soon as they took possession of the bill of sale, etc.

Q. 75. What was done with the sign?

A. Sign was taken down, stored away somewhere; we had no use for it.

Q. 76. Was it ever put up again anywhere?

A. No, sir.

Q. 77. Did the Marvin Company have a sign in New York City at that time?

A. Yes, sir.

Q. 78. What was done with that store?

A. That store had a lease on it. The Marvin Safe Company had a lease on that store, which was turned over to the Herring-Hall-Marvin Company, which I as Chairman of the Execuitve Committee sold subject to the approval of the Board of Directors to Hackert, Carhart & Company, for $25,000 in cash. The lease was sold to them in about September, 1892, after the——

Q. 79. What did you do with the Marvin safes and sign?

A. We continued to use that store up till about the first of January, as we had that privilege in the lease, and the owner used part of the store which was covered by the lease to another party who had a lease till the first of January. As soon as the lease expired we moved everything out into our store on the corner of Franklin Street. Signs were all taken down. They were of no use to any one, they were old. What became of them I don't know. The store was abandoned.

Q. 80. What signs were maintained on the store at the corner of Broadway and Franklin Streets?

A. The sign of Herring-Hall-Marvin Company only. "Only" was not on the sign, but that was the only sign there was on.

Q. 81. That was the only sign the Company kept up in New York after the Marvin lease had been sold and the premises delivered, wasn't it?

A. Yes, sir.

Q. 82. In May, 1892, did the Hall's Safe & Lock Company have a store in Philadelphia?

A. No, sir, there was a dealer there by the name of T. C. Williams who sold Hall's Safes—bought them and sold them.

Q. 83. What became of that dealer and his store?

283 A. He abandoned the business and closed the store. I think we bought the safes back from him that he had on

hand and put them in the store that was formerly occupied by Farrell & Company.

Q. 84. What signs were put over that store?

A. Sign of Herring-Hall-Marvin Company.

Q. 85. Any others?

A. No, sir.

Q. 86. Are you familiar with what changes were made in signs in other stores and branches turned over to Herring-Hall-Marvin Company, or any of them?

A. I am not familiar with them. If I visited any of those places during that time I didn't particularly notice the signs. They had instructions, however, to change their signs.

Q. 87. After the Herring-Hall-Marvin Company took possession under the bill of sale of the property and business of the Hall's Safe & Lock Company, did the name of Hall's Safe & Lock Company appear in the city directories of Cincinnati?

A. No, sir.

Q. 88. Did it appear in the city directory of New York?

A. No, sir.

Q. 89. Did it appear anywhere to your knowledge?

A. No, sir.

Q. 90. Did the Herring-Hall-Marvin Company spend any money in advertising Hall's Safe & Lock Company's product?

A. No, sir.

Q. 91. Did they spend any money in advertising "Hall's Safes" or "Hall's Standard Safes"?

A. No, sir. The Eastern directories there were very much dissatisfied because they thought that we were trying to make the Hall's Safe & Lock Company predominant in the new Company by placing the name of Hall larger than Herring and Marvin on the transfers we made of the lettering to go on the safes.

Q. 92. When that dissatisfaction reached your ears, what did you do?

A. I told them not to make any of those large "Hall's."

Q. 93. You reduced the dimension of "Hall"?

A. I reduced the dimension of the "Hall."

Q. 94. Did that give them better satisfaction?

284 A. I think so. They didn't tell me, though.

Q. 95. Did Herring-Hall-Marvin Company order any transfers at any time from anybody with the names "Hall's Safes" or "Hall's Standard Safes" or "Hall's Safe & Lock Company," so long as you had anything to do with it?

A. Not after 1892.

Q. 96. How long did you continue to do business as Herring-Hall-Marvin Company?

A. From 1892, up to the time I left the Company, 1896.

Q. 97. Was there any change in the name put upon the factories, and used on the letter-heads, etc., in all that time?

A. Yes, there was a change in the name to the Hall's Safe & Lock Works in the latter part of 1895.

Q. 98. How did you come to make that change?

A. That was by order of the Board of Directors.

Q. 99. At what meeting?

A. I think it was at the annual meeting about the first of July, 1895.

Q. 100. Wasn't that part of the general scheme on which the election of W. S. Rowe was conditioned?

A. It surely was.

Q. 101. What changes did you make in the signs at that time, or as a result of that meeting?

A. They took the name of Herring-Hall-Marvin Company off of the factory buildings at Cincinnati some time before that. They had never been replaced. The Directors suggested that we put up the name of "Hall's Safe & Lock Works" for the purpose of making the general public believe that the Hall people had withdrawn from the combination or trust, as our competitors called it, and were practically doing business for themselves again.

Q. 102. Were changes in stationery made at that time?

A. Yes, sir, it lasted only for a short time, however.

Q. 103. It was in the February following that there was another change?

A. That there was another change, yes, sir.

Q. 104. In answer to question 45 of his direct examination, Mr. R. T. Pullen testified that Herring-Hall-Marvin Company always announced itself as the successors of the firms to which you have referred, Hall's Safe & Lock Company, Herring & Company, Marvin Safe Company, Farrell & Company, and Myers & Smith. I will ask you, Mr. Hall, if that is a correct statement?

285 A. No, sir; they had no authority whatever to use the name Hall's Safe & Lock Company.

Q. 105. Did they announce themselves as successors of these Companies at any time, or in any way?

A. Not that I am aware of.

Q. 106. Was any such sign put up on their buildings here in Cincinnati?

A. No, sir.

Q. 107. Or in New York?

A. No, sir.

Q. 108. Or in Philadelphia?

A. No, sir.

Q. 109. Was any such put on the stationery used by——

A. No, sir.

Q. 110. You did not order transfers showing that?

A. No, sir.

Q. 111. What names were used on the safes, the product of the Herring-Hall-Marvin Company, so long as you were connected with it?

A. Name "Herring-Hall-Marvin Company."

Q. 112. What other name?

A. For a time we put on "Hall's Standard Safe" on the back of the safes. We had a lot of those on hand and used them up.

Q. 113. What other name?

A. Oh—"Hall's Safe & Lock Works" in 1895 for a short time.

Q. 114. Did you ever order any more transfers after using up those on hand with the name "Hall's Standard Safes"?

A. No, sir.

Q. 115. Did you ever use the name "Hall's Safes" on the safes?

A. No, sir.

Q. 116. Did you ever advertise "Hall's Safes"?

A. No, sir.

Q. 117. What was the value of the tangible assets turned over to the Herring-Hall-Marvin Company in May 1892 by the Hall's Safe & Lock Company?

A. According to the appraisers and the expert book accountants, it was one million fifteen thousand dollars and some cents.

Q. 118. What did Hall's Safe & Lock Company receive for that?

A. Seven hundred thousand dollars cash and six hundred
286 and fifty thousand dollars in common stock.

Q. 119. That appraisement as I understand it, did not include the value of patents?

A. There was nothing added for patents.

Q. 120. Did it include patents at all; did that valuation include patents?

A. The patents were marked in the bill of sale. But it didn't include patents. The bill of sale included patents; but there was no valuation on the patents.

Q. 121. How many dividends were paid on common stock?

A. One.

Q. 122. How much?

A. Four per cent.

Q. 123. How many dividends were paid on preferred stock?

A. Six quarte-ly dividends of two per cent. each.

Q. 124. No preferred stock was turned over to the Hall's Safe & Lock Company, I believe?

A. Oh no sir.

Q. 125. After the organization of the Hall's Safe Company, what steps did you take to get into business?

A. I immediately went to work.

Q. 126. What did you do?

A. We decided to expend our capital to bring ourselves before the public.

Q. 127. How did you proceed?

A. We had a big reputation for safe making. We announced to the public that we had started in business for ourselves under the name of the Hall's Safe Company.

Mr. MAXWELL: I object to his statement of announcement to the public, unless the announcements are produced.

The WITNESS: They were produced on all our letter-heads and our bill heads.

Q. 128. Didn't you rent a factory?

A. We rented a factory and bought machinery, made patterns, built safes and sold them—and made some money out of them.

Q. 129. When did you begin selling safes?

A. Began selling safes—began shipping safes in June 1897.

Q. 130. Who joined with you in organizing the Hall's Safe Company?

A. My brothers and sisters.

287 Q. 131. How many of your brothers?

A. There was W. H. Hall, C. O. Hall, A. A. Hall, Walker P. Hall Mrs. S. F. Kemper, her husband Mr. S. F. Kemper, Mrs. Frank H. Clarke, and her husband Frank H. Clarke, and myself, Edward C. Hall.

Q. 132. Was the subject of the name of the new company matter of discussion between the incorporators and subscribers to the stock?

A. Not that I remember in any way. We concluded that we would start under our own name, "Hall's Safe Company."

Q. 133. Who concluded to take that name?

A. When I broached that and told them I was going into business, I told them that that was what the name would be.

Q. 134. And what did they say?

A. They said they were with me.

Q. 135. Did you have any doubt as to your right to use that name?

A. None whatever. We had a contract; when we sold out the old Hall's Safe & Lock Company they gave us the privilege of using the name whenever we wanted to, if we got out of business, if they didn't carry out their contract with us. If they had carried out their contract there would have been no necessity for us ever to have gone in business.

Q. 136. That is, if they didn't fail?

A. They would never have failed.

Q. 137. You had no other contract of any kind with the Herring-Hall-Marvin Company except the written contract, copy of which has been produced, had you?

A. No, sir.

Q. 138. And the Hall's Safe & Lock Company had no other contract except the agreement which has been produced, the option which you gave to the promoters, bill of sale which was executed and delivered, had they?

A. No, sir.

Q. 139. Has the Hall's Safe Company made any efforts at any time to persuade the public that they were selling the product of Herring-Hall-Marvin Safe Company?

A. No sir; they branded all their goods with their own name, the Hall's Safe Company; and for the last—since 1902, when we commenced using the trade-mark, we placed the trade-mark on all work that we have made and sent out.

288 Q. 140. Do you know whether any of the dealers in your goods have ever attempted to sell your safes as the product of the Herring-Hall-Marvin Safe Company?

A. No sir, I know they have never attempted it, because we have contracts with all our dealers that they are not to sell anybody else's goods but our own.

Mr. MAXWELL: I move that the answer be stricken out, unless the witness produces the contracts to which he refers.

Q. 141. State what you know of your own knowledge about the efforts of yourselves and the officers of Hall's Safe Company, or any of its dealers or agents or salesmen, in the matter of palming off your goods as the goods of the Herring-Hall-Marvin Safe Company?

A. I don't know of any cases where we have ever done so.

Q. 142. Would there be any advantage to you in attempting to sell your goods as those of the Herring-Hall-Marvin Safe Company?

A. No, sir.

Q. 143. While you were in the employ of the Hall's Safe & Lock Company did you meet the various dealers, agents, salesmen, customers, material men, etc., that were doing business with Hall's Safe & Lock Company?

A. Yes sir, I had a reputation in the safe business that there is not any body in the safe business at the present day had an equal. I was known by all.

Q. 144. How about your acquaintance?

A. My acquaintance was intimate with all the dealers, with all the safe agents, and with all the large corporation customers that we had.

Q. 145. And what were your relations with them?

A. Pleasant all the time; and when we commenced business they entreated us to quote them prices, which we did and sold a great many of them.

Q. 146. Has any one of Joseph L. Hall's family been connected with Herring-Hall-Marvin Company since its organization?

A. No sir, except a son-in-law, Mr. Pullen.

Q. 147. Do you know of any one connected with the Herring-Hall-Marvin Safe Company since its organization that has had sixty years' experience in the safe business?

A. No sir, there is nobody in their employ even that has had that.

Q. 148. What length of experience has Mr. Pullen had?

289 A. Probably more than anybody connected with that institution outside of himself at the present day.

Q. 149. That does not quite answer the question. I asked you what length of experience has Mr. Pullen had?

A. About twenty-seven years.

Q. 150. I will ask you to look at the various advertisements offered in evidence by plaintiff, and marked Plaintiff's Exhibits Nos. 4, 5, 6, 7, 23, 24, 25, 26 and 27, and state what you know about said advertisements, and what connection Hall's Safe Company had with them? (Handing to witness.)

A. I have seen these advertisements. I think they were all placed in the papers and periodicals as marked on here, but Hall's Safe Company had no direct connection with them. They did not either order them put up, or pay for them.

Q. 151. When did you first see them, Mr. Hall?

A. I might have seen them in their original shape in the news-

papers, but I cannot identify either one of them as an advertisement that I saw there. I did see them at the time that they were put in here as evidence.

Q. 152. Have you any definite recollection as to whether you saw them in print before they were produced in evidence?

A. No, sir.

Q. 153. When was your attention first called to the fact that such advertisements were being inserted in the papers?

A. At the time of the hearing in the United States Court of the suit of the Herring-Hall-Marvin Company against the Hall's Safe Company. Mr. Cochran, our attorney, said that they had those things in evidence, and at the same time he called our attention to the catalogue which was marked on same "sixty years." He said advertisements of that kind were doing harm that the other parties thought that we were trying to usurp their business, and he wanted them stopped. We issued orders immediately to stop them, and they have been stopped since.

Q. 154. At the dates of those several advertisements cut from the New York papers, and Munsey's Magazine, did you have any interest in the firm of Kinsey, Ranier & Thomson?

A. No, sir.

Q. 155. What was Kinsey, Ranier & Thomson?

290 A. They were dealers in Hall's Safes.

Q. 156. A firm, or Company?

A. They started out as a firm and afterwards incorporated. I don't remember though the year.

Q. 157. When did you first have any interest——

A. February 1st, 1903.

Q. 158. I will ask you whether Mr. W. H. Hall or the Hall's Safe Company ever had any interest either in the firm of Kinsey, Ranier & Thomson, or the company of Kinsey, Ranier & Thomson Company?

A. No, sir.

Q. 159. At any time?

A. No, sir.

Q. 160. Were you a creditor of the Herring-Hall-Marvin Company at the time it failed in 1897?

A. I was.

Q. 161. To what extent?

A. To an acknowledged extent of $1,700 and a little over.

Q. 162. Has that claim been paid?

(Objected to by counsel for plaintiff, as immaterial to the issues in this case.)

A. It was partially paid—twenty-five cents on the dollar.

Q. 163. Is that all that you have ever received from it?

A. That is all that I have received from it.

Q. 164. Were you a stockholder of the Herring-Hall-Marvin Company at the time of its failure?

A. I was.

Q. 165. Have you any interest in the Herring-Hall-Marvin Safe Company?

A. No, sir.

Q. 166. Has the Herring-Hall-Marvin Safe Company ever undertaken to pay the claim you held against the Herring-Hall-Marvin Company?

(Objected to by counsel for plaintiff, as immaterial to the issues in this case.)

A. No, sir.

Q. 167. When did the Herring-Hall-Marvin Company cease to operate Hall's Safe & Lock Works?

A. May 12th, 1892. Wait a minute—I didn't understand the question before, and didn't intend to answer it as noted. Read me the question again. (Question 197 now read to witness, who further answered:)

291 The WITNESS: When they moved out of their buildings, changed them around entirely, changed the works around entirely, which was in 1897.

Q. 168. Did they abandon the Hall's Safe & Lock Company factory entirely in 1897?

A. They did.

Q. 169. Have they ever maintained a factory in Cincinnati since 1897?

A. No, sir.

Q. 170. Have they maintained an office here since 1897?

A. Not till 1904.

Q. 171. What month?

A. I think they moved into that somewhere between August and October. The date I have never tried to find out.

Q. 172. During this entire period have they been receiving mail matter directed to Hall's Safe & Lock Company, Cincinnati?

A. Yes, sir.

Q. 173. Has Hall's Safe Company received any mail matter directed to Hall's Safe & Lock Company, Cincinnati?

A. Not from the post-office. They have from Hamilton, which had been originally sent to the Herring-Hall-Marvin Safe Company of Hamilton, and they sent it back to us as our property.

Q. 174. What was the condition of the mail sent back to you from Hamilton?

A. Principally checks and bills.

Q. 175. What was the condition of the mail letter—opened?

A. It had been opened and read, yes, sir.

Q. 176. And all the business coming to your Company in letters address "Hall's Safe & Lock Company" has been subject to the supervision of the Herring-Hall-Marvin Company, hasn't it?

A. Yes, sir.

Q. 177. In the last four or five years?

A. Yes, sir.

Q. 178. In all that time have you received any matter that be-

longed to the Herring-Hall-Marvin Company here in Cincinnati, or Herring-Hall-Marvin Safe Company?

A. No, sir, neither one or both.

Q. 179. Not a letter?

A. Not a letter that I know of.

292 Q. 180. Are there any objections to the Herring-Hall-Marvin Safe Company receiving the mail intended for the Hall's Safe Company, opening it, reading it and forwarding it to you?

A. Yes, sir, there are objections.

Q. 181. What are they?

A. There are often contracts in there which are private. We are buying material and other such matter that they have got no business to see and which does not concern them at all.

Q. 182. Well, they learn the prices of safes sold, by you?

A. Yes, sir.

Q. 183. What about remittances—any objection to their handling such letters?

A. They delay us in remittances.

Q. 184. How much?

A. I have known cases where they were as high as ten days in coming from Hamilton down here.

Q. 185. What is the average delay on such remittances?

A. At least two days.

Cross-examination by Mr. MAXWELL:

X Q. 1. What year did you go into the employ of your father?

A. 1868, I commenced to work for father, but I have always been working around there previous to that, on holidays and Saturdays.

X Q. 2. How far back do you remember your father's business?

A. I remember it back as far as about 1861.

X Q. 3. He was then carrying on business as Joseph L. Hall & Co.?

A. No, sir, under the firm name of Hall-Carroll & Co.

X Q. 4. Who were his partners?

A. William Carroll and Charles Carroll. That firm ran to about 1863. It was then succeeded by Joseph L. Hall & Co.

X Q. 5. Did your father have any partner in Joseph L. Hall & Co.?

A. No, sir.

X Q. 6. Did your father continue in business as Joseph L. Hall & Co. until the Hall's Safe & Lock Co. was formed?

A. Till 1867.

293 X Q. 7. When the Hall's Safe & Lock Co. was formed?

A. When the Hall's Safe & Lock Co. was formed.

X Q. 8. Where were Hall-Carroll & Co. carrying on business?

A. In Cincinnati.

X Q. 9. What place in Cincinnati?

A. Their factory in the alley right behind Phil Coon's factory, between Second and Front, and Main & Sycamore.

X Q. 10. When did they move to the location afterwards occupied by Joseph L. Hall & Co. and the Hall's Safe & Lock Co. and Herring-Hall-Marvin Co.?

A. They moved to the southwest corner of Pearl & Plum about the year 1861 or '62.

X Q. 11. What concern preceded Hall-Carroll & Co.?

A. Hall, Dodd & Co.

X Q. 12. Which was composed of your father, and who else?

A. William B. Dodd.

X Q. 13. When were they in business?

A. Previous to Hall-Carroll & Co.

X Q. 14. Can you give us the years?

A. It was previous to 1860. I can give you the number of years.

X Q. 15. Do you remember Hall-Dodd & Co. as a boy?

A. Yes, sir.

X Q. 16. Is Hall-Dodd & Co. the first of the concerns that you remember as a boy?

A. Yes, sir.

X Q. 17. Your grandfather was not in that business?

A. Grandfather was in the safe business previous to that time, according to hearsay only.

X Q. 18. Did you ever see your grandfather?

A. Yes, sir.

X Q. 19. When?

A. I don't remember what year he died. I think it was about in '59, somewhere around there.

X Q. 20. Was he in Cincinnati then?

A. Yes, sir.

X Q. 21. He was not in the safe business then, was he?

A. No, sir.

X Q. 22. Your father was?

A. Yes, sir.

X Q. 23. Did you ever know your grandfather to be in the safe business in Cincinnati?

A. From hearsay only.

294 X Q. 24. Who told you that?

A. My father.

X Q. 25. When did he tell you that?

A. I expect on more than one occasion. I do not know the time.

X Q. 26. What did he tell you about your grandfather having been in the safe business?

A. Told me that he was in the safe business previous to the time that he went in, and then he went in the business.

X Q. 27. Where did he say your grandfather had been in the safe business?

A. In Pittsburgh.

X Q. 28. When?

A. It was previous to 1849.

X Q. 29. When did your father go in business in Pittsburgh?

A. I don't know.

X Q. 30. Did he tell you?

A. I supose he has; I don't remember though just exactly the time. That is a long time; I was quite a small boy.

X Q. 31. You testified on behalf of the Hall's Safe Company of Illinois, in the suit brought against them by the Herring-Hall-Marvin Co. I refer to the deposition which you gave in that case, in Cincinnati, on or about December 28, 1894; did you not?

A. Yes, sir.

X Q. 32. I call your attention to your testimony in that case on page 464, as follows:

"Question. Had any Hall been engaged in the safe business so far as you know prior to your father's starting in business in '49?

"Answer. None that I ever looked up."

"Question. Where did your father conduct his business?

"Answer. At Pittsburgh first.

"Question. For how long a time?"

"Answer. I think about a year.

"Question. To what place did he remove?

"Answer. Cincinnati.

"Q. So that he came to Cincinnati and started a safe business some time about 1850?

"Answer. Yes, sir."

Did you so testify?

A. I think so.

295 X Q. 32. Is that correct?

A. If it is down there it is. (After being requested to read same to himself, and doing so:) That is all right.

X Q. 33. I call your attention to your testimony in that deposition at page 498 as follows:

"Question. Your father and his sons, including yourself, as I understand it, were the only Halls who had been in the safe business; that is true, is it not?

"Answer. I think so, except an uncle of mine once went into the business.

"Question. That was a short time and quite an unimportant matter, wasn't it?

"Answer. I did not investigate it. I don't know how long he was at it."

Did you so testify?

A. I did. I had forgotten all about grandfather at that time.

X Q. 35. Your grandfather you never knew of your own knowledge to be in the safe business?

A. No, sir.

X Q. 36. And you don't believe that your grandfather ever had any important part in any safe business, do you?

A. If he was a partner, why he had as much of an important part as anybody else.

X Q. 37. He never was in the business in Cincinnati, as I understand you?

A. No, you don't understand me that way. He was in business in Cincinnati.

X Q. 38. When?

A. In his early days.

X Q. 39. Did your father come down here?

A. They came down here together. Now that is all hearsay on my part, it is only family information. I never learned any positive dates on it, anything of that sort.

X Q. 40. When you were testifying in last December you didn't have in mind that your grandfather had ever been identified in any substantial or important way with the safe business, did you?

A. I never knew him to be very prominent in the safe business.

X Q. 41. You don't believe he ever was, do you?

A. I was not there at the time, I haven't any idea about it.

X Q. 42. Have you any information that leads you to
296 believe that your father ever had any important part in the safe business?

A. Not in those early days.

X Q. 43. Well, in later days, did he?

A. Yes.

X Q. 44. In what way?

A. Well, he was President of the Hall's Safe & Lock Company, a concern that did a good business.

X Q. 45. Your grandfather?

A. No, my father—you asked about my father.

X Q. 46. I meant to ask about your grandfather?

A. My grandfather died when I was a small boy, I don't know much about him.

X Q. 47. You never heard that your grandfather had any important connection with the safe business, did you?

A. I have seen E. and J. Hall name-plates, that have come off the safes.

X Q. 48. That doesn't answer my question.

(X Q. 47 now read to witness, who answered as below.)

The WITNESS: Nobody ever told me so.

X Q. 48*a*. Was your grandfather a mechanic?

A. I presume he was if he was making safes. In those early days they had to take a hand in it and help out.

X Q. 49. You don't know that he was making safes?

A. It is not essential that I should know it.

X Q. 50. Then you don't know whether he was a mechanic or not?

A. That is not essential.

X Q. 51. Please answer my question.

A. I am doing so.

X Q. 52. Do you or do you not know whether your grandfather was a mechanic?

A. I don't know whether my grandfather was a mechanic.

X Q. 53. Did anybody ever tell you that your grandfather was a mechanic?

A. No.

X Q. 54. Is it known in the safe trade that your grandfather was ever connected with the safe trade?

A. What do you mean by the safe trade?

X Q. 55. I mean what I say—I mean people engaged in the safe business in the United States.

A. I don't know what they know.

X Q. 56. Well, you yourself when you were examined a
297 month or so ago, said that you never heard of anybody except your father and yourself and your brothers by the name of Hall being engaged in the safe business, except your uncle was for a short time?

A. Of course it was the best of my knowledge and belief at that time. If my grandfather was in the business it escaped my memory at that time, or I would have mentioned him too. There would have been no harm in it.

X Q. 57. Your grandfather's connection with the safe business, if he ever had any, was so insignificant that you would not say that he was known as a safe man in the United States, would you?

A. I wouldn't say anything about it. I don't know.

X Q. 58. Did you have a hand in advertising "three generations of safe builders" in your catalogue? I call your attention to page 21 of your catalogue, Plaintiff's Exhibit No. 18. I see it says, "three generations of high grade safe making."

A. What is it you want to know about it? What do you mean by I having a hand in it?

X Q. 59. Did you assist in preparing that data; did you give the genealogy of the three generations?

A. No, my brother did that.

X Q. 60. Did your brother get from you the dates that are published on that page?

A. No, sir.

X Q. 61. You saw the page?

A. I think so.

X Q. 62. At the time it was prepared?

A. Yes, sir.

X Q. 63. And assented to it?

A. Don't you think it is true?

X Q. 64. Please answer whether you assented to it?

A. Whether I did in words, or not, I did in actions by letting it go through.

X Q. 65. Why did you put on that page, "E. Hall & Company, established 1840"?

A. I didn't put it on, I tell you, but Harry did.

X Q. 66. Why did you allow that to be published?

A. Don't you think it is true?

X Q. 67. Do you think it is true?

A. It is true to the best of my knowledge and belief.

X Q. 68. What knowledge and belief have you upon that subject?

A. It is on the paper there.

298 X Q. 69. What paper?

A. In that catalogue of ours.

X Q. 70. Have you any knowledge, and if so what knowledge about a business established in 1840?

A. I have no knowledge of it.

X Q. 71. Where was any such business established?

A. I have got no knowledge of it.

X Q. 72. What do you mean by "three generations"?

A. Why, there is three generations.

X Q. 73. What three generations did you refer to in that page?

A. I referred—or Harry referred to grandfather, father and ourselves.

X Q. 74. I don't see a word about yourselves there, I don't see a word about your father, and there is not any suggestion about your grandfather.

A. It says right there, "three generations."

X Q. 75. I see it says "three generations," but I don't see any reference on that page or any other page in this book to your name—do you?

A. I don't see anything there excepting this in the book, the "Hall's Safe Company" right on there.

X Q. 76. I see "Hall's Safe Company," that is what you call your name, I believe?

A. That is the name of the party that is publishing the book.

X Q. 77. Why did you leave off the name of the Hall's Safe & Lock Company on that page?

A. The Hall's Safe — Lock Company was not an ancester, was it?

X Q. 78. Why did you leave it off; did you have any reason?

A. Le-t it off for that reason.

X Q. 79. Now, having told us why you left something off, please tell us why you put page 47 in?

A. I suppose he put it in there to use as an advertisement.

X Q. 80. To create the impression that the Hall's safes, that were being advertised in that catalogue, had established their reputation in the great Chicago fire?

A. Didn't they? They did establish it.

X Q. 81. Then you mean it to be understood that the Hall's safes which you were advertising in this catalogue had established their reputation in the Chicago fire in 1871, did you?

299 A. It says nothing about 1871 there, Mr. Maxwell.

X Q. 82. Well, we will strike out 1871, and we will say the great Chicago fire?

A. And the great Boston fire and the Lynn fire, and the Seattle fire.

X Q. 83. Please answer my question.

A. Didn't I? Well, let me have the question and I will try to do it.

(X Q. 81 now read to witness, who further answered as below:)

The WITNESS: The same kind of a safe? Yes, sir.

X Q. 84. But it didn't say the same kind of a safe?

A. I did.

X Q. 85. Where did you say it?

A. I just got done saying it.

X Q. 86. What did you mean on that page by the safes which you speak of as "Hall's safes are the best"?

A. The safes that we make.

X Q. 86*a*. You mean the defendants in this case?

A. Yes, sir.

X Q. 87. And what did you mean by the "Hall's safes" on the third line of the page?

A. There is only one Hall's safe made.

X Q. 88. What safe is that?

A. Made by the Hall's Safe Company.

X Q. 89. Of Cincinnati?

A. Yes, sir.

X Q. 90. They are known as Hall's safes?

A. Yes, sir.

X Q. 91. You advertise them as "Hall's Safes," do you?

A. Yes, sir.

X Q. 92. And publish them as "Hall's Safes"?

A. Hall's Safe Company safes, yes, sir.

X Q. 93. Did you just state that they were known as Hall's Safes?

A. How can they be known as anything else when it is only the Halls that make them?

X Q. 94. Then it is true that you have called the safes that you make "Hall's Safes," and you advertise and publish them as Hall's safes, and claim that they are Hall's safes and the only Hall's safes?

A. That is right, sir.

X Q. 95. What do you mean on page 51 when you say "Always use Hall's safe. Our record of almost sixty years, 1840 to 1900, proves our position"?

300 A. That's right.

X Q. 96. What safes did you refer to?

A. Meant them for our own safes.

X Q. 97. Well, Hall's Safe Company was not in business in 1840 and up till 1897, was it?

A. The individual members of the company were though, in the intermedium—not clear back to 1840.

X Q. 98. It says "our record"?

A. That is what I am talking about.

X Q. 99. Whose record did you refer to?

A. Hall's Safe Company.

X Q. 100. Do you mean your own Hall's Safe Company?

A. Yes, sir.

X Q. 101. Hall's Safe Company had no record back in 1840, did it?

A. No, sir.

X Q. 102. You didn't have any record back to 1840—you were not born?

A. No, sir.

X Q. 103. Your brother, W. H. Hall, didn't have any record back in 1840, he wasn't born, was he?

A. No, sir.

X Q. 104. Who did you mean when you said on that page, "our record of almost sixty years"? Who did you mean by "our"?

A. Whose catalogue did we publish it in? In Hall's Safe Company. There is nobody in the Hall's Safe Company except the Halls.

X Q. 105. Then when you said on page 51, "our record," you mean the record of the defendants in this case?

A. Yes, sir.

X Q. 106. Why did you say that it was a record of almost sixty years, when it had not been in business at that time but three years?

A. It isn't very far from it?

X Q. 107. Yes, three isn't very far from sixty, is it?

A. Not very far.

X Q. 108. That is the only answer that you have to make on that subject, is it?

A. I didn't intend that for an answer.

X Q. 109. But it is the best you can make under the circumstances. Did the Hall's safes have a great reputation in your father's time?

A. Yes, sir.

301 X Q. 110. They were advertised and sold as Hall's safes all through the United States, were they not?

A. All our advertisements were Hall's Safe & Lock Company.

X Q. 111. But you have seen during the course of this examination innumerable advertisements, in your catalogues, circulars and pamphlets, of "Hall's Safes," "Hall's safes are the best," "Hall's standard safes"?

A. They are so, in our estimation.

X Q. 112. Whose estimation?

A. The Hall's Safe Company.

X Q. 113. Oh, but I call your attention to the innumerable advertisements of the Hall's Safe & Lock Company?

A. Yes.

X Q. 114. Of Hall's safes. Do you mean to say that the product of Joseph L. Hall & Co. was not extensively advertised as "Hall's safes"?

A. No, I don't mean to say so.

X Q. 115. You know it was, don't you?

A. Of course it was.

X Q. 116. You know that the product of Hall's Safe & Lock Company was widely advertised as "Hall's safes," don't you?

Mr. COCHRAN: Mr. Hall, I ask you to please note the questions carefully before answering. He is now asking you about Joseph L. Hall & Co. Did you mean your answers above?

The WITNESS: I don't know anything about the advertisements of Joseph L. Hall & Co. I didn't mean that.

X Q. 117. Then why did you put in your catalogue a record of Hall's safes dating back to 1860, and put in Joseph L. Hall & Co.?

A. Because he mentioned that as one of the three generations.

X Q. 118. That had manufactured Hall's safes?

A. He didn't say so.

X Q. 119. I beg to call your attention to that page. There it is—"History of Hall's Safes"—giving the history of Hall's safes, and he puts down Joseph L. Hall & Co. Don't you know that the product of Joseph L. Hall & Co. was advertised and known as "Hall's safes"?

A. I don't know it of my own knowledge.

X Q. 120. When did you first know the term "Hall's safes"?

A. I don't know that I could fix the date of that.

302 X Q. 121. You have known it ever since you were a boy, ever since you could remember anything, have you not?

A. I know the names of the different concerns.

X Q. 122. I am not asking you about the names of different concerns; I am asking you if ever since you were a boy you didn't hear the term "Hall's safes" and "Hall's Standard Safes"?

A. No, sir.

X Q. 123. Have you told us when you first heard the term?

A. During the—after I got in the business of the Hall's Safe & Lock Company.

X Q. 124. Didn't you go into the business before Hall's Safe & Lock Company was formed?

A. Not with an interest.

X Q. 125. I am not asking you with an interest.

A. What are you asking me?

X Q. 126. I am asking you whether you were in the business before Hall's Safe & Lock Company was formed?

A. What do you mean by being in the business?

X Q. 127. Being employed in the business, were you not?

A. I was employed in the business, yes.

X Q. 128. Do you mean to tell the Court that when you were employed in the business of Joseph L. Hall & Co., that you didn't hear of and know of the term "Hall's safes"?

A. There wasn't very many safes being made in those days.

X Q. 129. I didn't ask you whether there were many made; I asked you whether you mean to tell the Court that from the very first time you were connected with the business as an employee of Joseph L. Hall & Company, you did not know of the term "Hall's safes" being used in the business?

A. No, I didn't.

X Q. 130. Then why in the exhibit marked "Plaintiff's Exhibit 18" do you put on page 21 the name of "Joseph L. Hall & Company" in connection with the history of Hall's Safes?

A. Because we had a perfect right to.

X Q. 131. Why on page 47, in giving the "unrivalled record of Hall's safes," did you refer to the great fire of Chicago?

303 A. Have you got any form of answer you would like me to put in there?

X Q. 132. I am trying to get you to tell the Court what you do know or——

A. You are trying to put words in my mouth, that is what you are trying to do.

Mr. COCHRAN: Counsel for defendants objects to the question, as

having been asked for the fifth or sixth time, and as having been answered; and objects to the attempts of counsel to put words into the mouth of the witness to support his argument in this case.

X Q. 133. Mr. Hall, you have said that at the time you first went into the employ of Joseph L. Hall, you did not know the term or hear the expression, "Hall's safes"—do I understand you right?

A. You do.

X Q. 134. When was it that you first knew of that term?

A. I tell you I don't know. When I was in the employ of Hall's Safe & Lock Company.

X Q. 135. Do you mean that the term was first used by the Hall's Safe & Lock Company?

A. As far as I know.

X Q. 136. And that the product of Joseph L. Hall's was not known as "Hall's Safes"?

A. I don't know much about the product of Joseph L. Hall & Co.—what the extent of it was, or anything else. I don't know whether I ever knew of it as known as "Hall's Safes," or not.

X Q. 137. You will not modify that answer after I have shown you your references in this catalogue to the history of Hall's Safes, on page 21, and with your knowledge personally dating back prior to 1860; and when I called your attention to page 47, in which you give the "unrivaled record of Hall's safes, and put it back to the great fire in Chicago; and when I call your attention to page 51 of the catalogue, in which you refer to Hall's safes, and "our record of sixty years"?

A. We did publish those; and we recalled them all, got in pretty nearly every one of them. I don't suppose there are but very few of them out.

X Q. 138. Yes, I understood from your brother that you recalled them after they had been called to your attention by the United States Court, in the suit that the Herring-Hall-Marvin Co. 304 brought against you, after that suit had been pending for several years, and your attorney advised you that it was not safe to continue such publications; but what I am calling your attention to now is; that you made those announcements and referred to the Hall's safes as having a record of sixty years?

A. That we had a perfect right to do. We did not recall those because we felt in any wise timid or afraid on account of them being published; but Mr. Cochran advised us that they were annoying to our competitors who thought that we were trying to usurp their business, and advised us to recall them, which we did.

X Q. 139. In your opinion are those pages of Exhibit No. 18, to-wit, pages 21, 47 and 51, proper advertisements of the defendants' safes?

A. I think they are proper advertisements, and we had a right to put it in. It might possibly be that the sixty years was say an exaggeration; but there are lots of people exaggerate somewhat in their advertisements.

X Q. 140. To what extent do you think the "sixty years" was an exaggeration?

A. The Hall's Safe Company is composed of members of the Hall family, and members of the Hall family have been in business making safes for a great many years.

X Q. 141. I want to know how many years you think in this advertisement would not have been an exaggeration? You said "sixty;" do you mean that fifty would not have been an exaggeration, and that the advertisements would have been all right if they had said "fifty years?"

A. In connection with that, I would say that Herring-Hall-Marvin Co. advertises that they have had an experience of sixty years. There is nobody ever connected with that concern that to my knowledge has been in business for sixty years, or that has ever had sixty years experience. They exaggerate the same as other manufacturers do.

X Q. 142. Won't you please answer my question? You have said that you approved of pages of Exhibit No. 18, to which I have called your attention, pages 21, 47 and 51, with the possible exception that the expression of "sixty years" was an exaggeration; now I want to know what period of years you think might have been inserted there without being an exaggeration?

A. In case this was an individual concern, why, sixty years would not have been a very great exaggeration; for I have been in
305 business myself since 1868. That would be at least half the sixty years—a double exaggeration.

X Q. 143. Then you think you might have said "Thirty years," do you?

A. Might have said "thirty."

X Q. 144. Then what would you have done with page 21, with the statement "E. Hall & Co., established 1840"—and with the statement, "Joseph L. Hall, established 1860;" that was more than thirty years before the date of this catalogue?

A. I was not around at that time, in 1840.

X Q. 145. Then you would not change those statements on that page?

A. We did change them, Mr. Maxwell, and withdrew them.

X Q. 146. Then I understand you did it in deference to the advice of your counsel; but I have understood from the testimony that you yourself are of the opinion that those advertisements were all right just as they were made?

A. I think that without any hesitancy at all that I would not be afraid to say that I considered those advertisements all right.

X Q. 147. And you consider the advertisements cut from the New York Sun and Munsey's Magazine that have been offered in evidence, beginning with Plaintiff's Exhibit No. 5, as proper advertisements, do you?

A. They are advertisements, but I didn't have anything to do with putting them in, or our Company did not.

X Q. 148. I didn't ask you that, I asked you whether you consider them proper advertisements?

A. I don't see why not. They had a perfect right to do it. There is nothing to hinder them from it.

X Q. 149. Isn't it likely that you saw those advertisements in the New York papers at the time they were appearing?

A. Probably.

X Q. 150. You never made any objection to them?

A. Not that I am aware of.

X Q. 151. What Safe Company is referred to in the advertisement of Munsey's Magazine, Plaintiff's Exhibit No. 4, as the "Hall's Safe Co., 393 Broadway, New York?"

A. If they put in the advertisement, they had not a reputation for throwing their money away, I expect that was their business.

306 X Q. 152. Please answer my question. I want to know what Company was referred to?

A. That has been there, Hall's Safe Company, 393 Broadway.

X Q. 152. That means the defendants, does it?

A. I guess it does.

X Q. 153. You have frequently been in New York, have you?

A. Oh, yes.

X Q. 154. Have you since the defendant was organized?

A. Yes, sir.

X Q. 155. What signs have been on 393 Broadway?

A. "The Hall's Safe Company," "Hall's Safes," the trade-mark, "Kinsey, Ranier & Thomson Company."

X Q. 156. When was "Hall's Safe Co." put on 393 Broadway?

A. That I don't know.

X Q. 157. When the store was opened?

A. That I don't know.

X Q. 158. It is there now?

A. It is there now.

X Q. 159. It has been there for a long time?

A. That sign is there now; it has only been on a year.

X Q. 160. You mean that particular painting?

A. Well, it has been re-painted.

X Q. 161. When was it originally painted?

A. That I don't know.

X Q. 162. Have you any reason to doubt that it was when the store was opened?

A. I haven't any reasonable doubt of it, no.

X Q. 163. And the sign there now on the window is "Hall's Safes?"

A. Yes, sir, "Hall's Safe Co."

X Q. 164. And both of those signs have been there, have they not, Mr. Hall, ever since the store was opened?

A. No, sir.

X Q. 165. How soon after the store was opened were they put there?

A. "The Hall's Safe Company, E. C. Hall, President, W. H. Hall, Treasurer," was put there about a year ago.

X Q. 166. You mean E. C. Hall, President, W. H. Hall, Treasurer, was put there about a year ago?

A. Yes, sir.

X Q. 167. But "Hall's Safe Co." has been there from
307 the beginning, hasn't it, on the store 393 Broadway?

A. On top of this store, I don't know.

X Q. 168. I don't care whether on the top or on the bottom, my question is, whether the sign "Hall's Safe Co." has not been on 393 Broadway since it was opened?

A. I think it has, but would not swear to it.

X Q. 169. Will you also think without swearing, that the sign "Hall's Safes" has been there since the beginning?

A. I will think that without swearing, yes.

X Q. 170. Well, you believe it has, don't you?

A. I believe it has.

X. Q. 171. I see you have on the sign also, "Hall's Second-hand Safes for Sale;" what kind of safes are they?

A. Some that we own.

X Q. 172. Whose make?

A. I don't know; it might be our make, "Hall's Safe Co."

X Q. 173. They might be somebody else's make?

A. Might be somebody else's make.

X Q. 174. Might be Joseph L. Hall's make?

A. I don't hardly think that would be, because we didn't make any for that part of the country in those days.

X Q. 175. They might have been the Hall's Safe & Lock Co.'s make?

A. They might have been.

X Q. 176. You might understand that "Hall's Second-hand Safes for Sale" to include safes made by Hall's Safe & Lock Co.?

A. Yes.

X Q. 177. But the "Hall's Safes" up there on the sign I understand to be safes made by the defendant?

A. That is right.

X Q. 178. So that there are two expressions of "Hall's Safes" in that window, one of them meaning safes made by the defendant, the other may include safes made by Joseph L. Hall & Co., is that correct?

A. Don't put it so far back; make it Hall's Safe & Lock Co.

X Q. 179. Well, Hall's Safe & Lock Co., yes. I notice on this window the following: "History repeats itself. Reputation of Hall's Safes established in the great fires of Chicago, Boston, Cincinnati, Paterson for preserving their contents is sustained in the Baltimore fire."

A. That is right.

308 X Q. 180. Did you have that advertisement put there?

A. No, but my employés probably did.

X Q. 181. What great fire in Chicago does that refer to?

A. That I don't know.

X Q. 182. You mean the fire which originated from the cow's kicking the bucket?

A. If I knew what their beginning was, I would tell you right here.

X Q. 183. Now try?

A. How can I try? I didn't do it.

X Q. 184. Have you any idea what great fire in Chicago that refers to?

A. That is the impression that they want to create, that it probably was in the great fire of Chicago.

X Q. 185. That is, in '71?

A. That I don't know.

X Q. 186. How long ago about was that?

A. There have been several pretty good size fires since then. You might like me to say '71, and I don't care to say it, because I don't know.

X Q. 187. Well, this tells that "History repeats itself," and that the "reputation of the Hall's Safes established in the great fires of Chicago, Boston, are sustained in the fire in Baltimore." Now I want you to tell the Court what great fire in Chicago that advertisement refers to?

A. I didn't get up the advertisement. I can tell you what the Baltimore fire refers to; that is right there, you know.

X Q. 188. I am coming to the Baltimore fire by and by; I am afraid you could not tell that either, because you didn't get up the advertisement; but I want to speak now of the Baltimore fire. Try and tell the Court your best impression what great fires that placard refers to?

A. I can only imagine and give you my imaginative powers.

X Q. 189. Put your imagination at work, and tell the Court?

A. I will tell the Court right out that I think that they tried to give the inference that it was the great Chicago fire.

X Q. 190. How about the "Boston" fire?

A. Same way there.

X Q. 191. That was a long time ago, wasn't it?

309 A. No, not a very long time ago since the Chicago fire.

X Q. 192. It was before Hall's Safe Company was formed?

A. Yes, before Hall's Safe Company.

X Q. 193. And it is so long ago that you cannot remember whether safes were called "Hall's Safes" then, isn't it?

A. I don't think so.

X Q. 194. Now will you tell us what fire is referred to as the "Baltimore fire"?

A. It was the late fire last year, February.

Mr. MAXWELL: Note that photograph to which reference is made in the foregoing question is Plaintiff's Exhibit No. 39.

X Q. 195. The top of the diamond-shaped panel in which the words "Hall's Safes" appear is not shown by this photograph. What was there, Mr. Hall? (Handing witness Plaintiff's Exhibit No. 39.)

A. To the best of my recollection is was Kinsey, Ranier & Thomson, dealers in Hall's Safes.

X Q. 196. Now, Plaintiff's Exhibit No. 41, shows an advertise-

ment on the truck used at 393 Broadway; do you recognize the placard? (Handing.)

A. Yes, sir, it looks like one of the trucks they use down there.

X Q. 197. How long have you used such advertisements of the name "Hall's Safe Co."?

A. I think about eight years, or seven years, something like that.

X Q. 198. You organized the Kinsey, Ranier & Thomson Co., did you?

A. Yes, sir.

X Q. 199. You are the President of it?

A. I am.

X Q. 200. You own all the stock?

A. Pretty nearly all of it?

X Q. 201. In your own right?

A. Yes, sir.

X Q. 202. The Hall's Safe Company has no interest in it?

A. None whatever.

X Q. 203. Do you make for yourself a profit or sustain the loss that occurs in the operation of that business?

A. I do.

310 X Q. 204. Has the Hall's Safe Company any interest in it?

A. None whatever.

X Q. 205. Do you fix the price of safes so that there shall be a profit in the operation of the New York store?

A. We try to.

X Q. 206. That is your own profit, is it?

A. Yes, sir.

X Q. 207. Do you sell safes to the Kinsey, Ranier & Thomson Company the same price as you sell to other dealers?

A. Yes, sir.

X Q. 208. Is the Kinsey, Ranier & Thomson Co. paying for them on same terms as other dealers pay?

A. Yes, sir.

X Q. 209. Well, then do you as President of the Hall's Safe Co. determine what the Kinsey, Ranier & Thomson Co. of which you are President and which you own, shall pay to the Hall's Safe Co.?

A. I never make any prices on any new goods without consulting my brothers and have them well satisfied.

X Q. 210. How do you come to have the New York business for yourself under the name of the Kinsey, Ranier & Thomson Company?

A. The Kinsey, Ranier & Thomson Co., or Kinsey, Ranier & Thomson were selling automobiles in addition to safes. That appeared to be the most lucrative part of their business; and they wanted to get into the automobile business. They asked the privilege to sell their business to other dealers, or make a proposition to myself to buy them out. They made a proposition, and I bought them out. I bought their safes on hand, material on hand, second-hand safes on hand. They gave me the privilege of using their name, Kinsey, Ranier & Thomson Co., or as near that name or any portion of that name as I desired to get the advantage of their advertising. They had been in business then for several years.

X Q. 211. I do not wish to inquire unnecessarily into your private affairs; but my question was, how did you alone come to take and run the New York business instead of having the Hall's Safe Co. do it?

A. My brother Harry and myself went East to buy that business out jointly. He changed his mind when he was in New York; he said he thought he could do more business by attending strictly to our own business out here, because I wanted to put my son-
311 in-law Mr. Stewart H. Walker in the management, and he thought that he would not like to go in the Company with three parties in, where two might control the third. So I took it upon myself.

X Q. 212. But then the use by the Kinsey, Ranier & Thomson Company, and by Kinsey, Ranier & Thomson, prior to the formation of the Company, of the name "Hall's Safe Company," and "Hall's Safes" has been with the approval of the defendant?

A. We have never given them any written approval; they have advertised that way right along.

X Q. 213. You have known that they have done it?

A. They have done it; we opened up the store and did it ourselves; so what is the difference?

X Q. 214. Then you do approve it, and you think it to your advantage that they should so advertise, don't you?

A. I don't know as it would be any more advantage to us; it is the name of our Company, that we do business in.

X Q. 215. And you are satisfied to have the name of your Company advertised in that way?

A. Why, we would not object if it was advertised on every store up and down Broadway.

X Q. 216. And if Hall's Safes were advertised in every store?

A. Yes, sir.

X Q. 217. And if the record of Hall's safes in the great fire of Chicago in '71 was advertised in every store?

A. We changed that, Mr. Maxwell, for the purpose of satisfying your clients.

X Q. 218. But this advertisement in your show window on Boardway has been there within the last few months?

A. No, it has not—no, indeed.

X Q. 219. When was the Baltimore fire?

A. A year ago.

X Q. 220. Well, it was there after that?

A. For a month or two, yes.

X Q. 221. Was it you that selected the name of the defendant Company?

A. I think it was.

X Q. 222. Did you have any discussion with anybody about it?

A. I don't know what you would call a discussion.

X Q. 223. Well, your brother has said that you conferred with counsel in respect to it?

312 A. Came and asked our attorney to organize that Company, to get out a charter for us, etc.

X Q. 224. Did you get his advice as to your right to use the name?

A. Might have asked him if there was any objection to using a name of that sort.

X Q. 225. Did you ask him?

A. I don't know that I did, or not, I am sure, whichever way you prefer it. If you would like me to say that I did, I might concede it.

X Q. 226. I would prefer not to indicate to you what I would prefer; I want you to tell me the facts.

A. I am trying to get at the facts; but I don't really know, that was quite a long time ago.

X Q. 227. And you cannot recollect then, as I understand you, whether you had any consultation or discussion or advice with respect to your right to call your Company the Hall's Safe Company?

A. I don't think there was any question in our mind at the time that we had no right.

X Q. 228. If there was none in your mind, you didn't put the question to counsel, and didn't get any advice on that subject?

A. I don't remember whether we did, or not.

X Q. 229. You heard your brother testify, did you?

A. I don't know; it was a long time ago.

X Q. 230. You have been here while your brother has testified yesterday and to-day; did you hear him testify on that subject?

A. He was under oath to tell the truth so far as he knew to the best of his knowledge and belief; and that is the way with myself. You do not want a lot of hearsay in this thing, do you?

X Q. 231. I want to know what the fact was, whether you had any consultation or discussion or advice about your right to use the name "Hall's Safe Co."?

A. The fact that we came to our attorney to get out a charter might indicate that we had; but I don't remember it.

X Q. 232. That would not indicate that you did because you might have come to your attorney and said, "We want you to draw up a charter for the Hall's Safe Company."

A. I think that is all we did say.

X Q. 233. I understood your brother to say that you had
313 had some discussion and advice on that subject; that is not your recollection?

A. I am not my brother's keeper, Mr. Maxwell.

X Q. 234. My question is, whether after hearing your brother make the statement?

A. How do you know that I heard him?

X Q. 234. You were here when he testified?

A. I don't know, I don't remember just at the present time whether I was here when he said that, or not; I went out of the room several times.

X Q. 235. Whether you heard what your brother said, or not, your present best recollection is that there was no discussion on that subject—or not?

A. We told Mr. Cochran we would like to have him get out a charter for us.

(By consent adjourned until 2:30 P. M. Wednesday, 2/22/05.)

Office of W. C. Cochran, Johnston Bldg.,

CINCINNATI, O., WEDNESDAY, *Feb.* 22, 1905.

Met pursuant to recess, at 2:30 o'clock P. M., same parties present.

Whereupon the witness, E. C HALL, resumed the stand, and his examination resumed by Mr. Maxwell:

X Q. 236. Your brother W. H. Hall left the employ of the Herring-Hall-Marvin Co. about the time you did, did he?

A. About the same time.

X Q. 237. Suppose he had organized a Company and called it the Hall's Safe Company, what would you say?

A. He had a perfect right to, or anybody else; there was no such Company in existence at that time.

X Q. 238. Then if he had organized a Company and called it the "Hall's Safe Company," and left you out, you would, you say, have no objection to that?

A. I don't know whether I would, or not, as far as that is concerned. Wait till I think about it; it is one of those questions that I have not thought about. If he wanted to go in the safe business, and I didn't I think he should go into it if he wanted to; I could not object if he had named it the Hall's Safe Company.

X Q. 239. Suppose you hadn't made up your mind whether you wanted to go into the safe business, or you did intend to go
314 into the safe business, and he has organized a Company and called it the Hall's Safe Co. without your consent, and without your being connected with the business, what would you say?

A. I don't own the name "Hall's Safe Co.," or "The Hall's Safe Co.," or anything of that sort.

X Q. 240. At any time then he could have done that?

A. Most assuredly.

X Q. 241. Then if he had done that first, you would not have had any right to complain?

A. I don't see why I should.

X Q. 242. And if you had done it first, and left him out, he would have had no right to complain?

A. I don't think so.

X Q. 243. Suppose Dean and Donnell had started a Company and called it "Hall's Safe Co."?

A. And we were not in the business?

X Q. 244. Yes?

A. I think that they would have had a perfect right to.

X Q. 245. Then it is a mere matter of who used the name first according to your view?

A. Undoubtedly.

X Q. 246. Suppose now for a moment, that you intended to go into the business shortly thereafter, would you have had no objection to Donnell and Dean going into the business and calling themselves "The Hall's Safe Company"?

A. None whatever, because there was no mortgage on the name of the "Hall's Safe Co.," or the "Hall's Safe & Lock Co.," or any

other company. The Hall's Safe & Lock Company had been out of business then for seven or eight years. If we have had no business to retain the name even nobody else had either.

X Q. 247. Then the fact that a man's name is "Hall" has nothing to do with it?

A. They would have a right to do it if there was no concern in that country; they could have gone out and got a charter if there was no other concern in the country of that name.

X Q. 249. Suppose they just called themselves the "Hall's Safe Company"—a co-partnership?

A. It would have been no affair of mine.

X Q. 250. You would not have cared?

A. It would have been no affair of mine.

315 X Q. 251. Suppose that a few months afterwards you wanted to start in the safe business?

A. That would not have prevented me from starting in the safe business.

X Q. 252. If you took the name of Hall——

A. They might have objected to my using the name of — if it was similar to theirs.

X Q. 253*a*. But you would not have objected to their using that name?

A. I don't see how I could.

X Q. 253. Did you object when you found out that Donnell had organized a corporation in Illinois and called it the "Hall's Safe & Lock Co.," did you object to that?

A. I did object to it for the reason that it was so near to the name that we were doing business in at that time, we didn't want anybody else in the business of that name. We were the only ones that were advertising the name. I was one of the parties that was instrumental in selling out the former business, and particularly guarded against selling the name.

X Q. 254. How did you guard against selling the name?

A. By, in all my negotiations telling them that we would not sell the family name to the Company. All they could buy would be the assets of the Company. They would have to take the business as a going concern just as it was, take the tools, machinery, everything specified in the contract. The contract is on record, and the Herring-Hall-Marvin Co. were parties to those circumstances and are thoroughly familiar with it.

Mr. MAXWELL: I move that the statement of the witness about what he did early in the negotiations be stricken out, on the ground that it is incompetent and irrelevant.

Mr. COCHRAN: I object to the counsel for the plaintiff asking for an opinion from my witness about a written document, and then refusing to take his answer. The documents speak for themselves.

X Q. 255. Who did you have this conversation with?

A. With my attorney.

X Q. 256. Then at the time you joined in this sale to Cox & Segur you had had conversations with your attorney, had you?

A. I made no contract as an individual.

X Q. 257. At the time you sold out you had a conversation with your attorney?

316 A. Previous to the sale prepared everything on purpose. The contract is on record and shows what it is.

X Q. 258. What attorney was that?

A. Mr. Cochran, W. C. Cochran, who is my attorney at the present time.

X Q. 259. You had a conversation with him in regard to the right of retaining the name "Hall?"

A. Certainly I did; we never sold the name at all.

X Q. 260. And the conversations you referred to are conversations you had with Mr. Cochran before Hall's Safe & Lock Company had sold out to the Herring-Hall-Marvin Co., in which you and Mr. Cochran stated that you were not selling the name?

A. I don't see that that is a direct question. Put it in the shape of a direct question, then I will answer it.

X Q. 261. Did you have a conversation with anybody else before Hall's Safe & Lock Co. sold out to Herring-Hall-Marvin Co. about your not selling your name?

A. Had it with the other people, Cox & Segur, Conner & Co., and Lawrence, and the parties that were connected with the deal—made a contract accordingly.

X Q. 262. What contract do you refer to?

A. Contract filed with what you call, the promoters down there.

X Q. 263. You mean your contract by which you were to be employed for a certain time?

A. No, I don't, anything of the kind, I mean the contract for the sale, option of purchasing.

X Q. 264. You mean the bill of sale?

A. You have what it was.

X Q. 265. Let us see what it was?

A. You have that among your records.

X Q. 266. Has it been offered in evidence? Just identify it so I may be sure what contract you refer to and which you think reserves to you the name?

A. It is contract of April 11, 1892, to Messrs. Conner & Co., John H. Davis & Co., and Crosswell & Gillett (?), found in Defendants' Exhibit No. 268. That is a copy of the contract. We did not sell them the name, nor we didn't sell them any of the stock at all. We agreed to wind up the Company, make it extinct, which we did.

X Q. 267. What provision of that contract is it that you supposed reserves to you the right to use the name "Hall's Safe Co."?

Mr. COCHRAN: Counsel for defendants objects to the ques-
317 tion as asking the witness for a construction of the contracts, which belongs to the Court.

The WITNESS: It is stipulated in the contract what they are to

purchase, the manufacturing plant, machinery, fixtures, leasehold interest, stock of safes, material, bills, receivable, book accounts, office furniture, property and good-will, etc. There is nothing mentioned there about the name; it was left out of there for a purpose according to our understanding; there was nothing mentioned there wherein we turn over the stock of our concern. We also agree in the contract to wind up the Company, pay debts of the Company and make it extinct. Have it go out of business.

X Q. 268. By "shares" you mean shares of stock in the Hall's Safe & Lock Co.?

A. I do, yes, sir.

X Q. 269. What trade name did Hall's Safe & Lock Co. have?

A. They had no trade names excepting the name, "Hall's Safe & Lock Co."

X Q. 270. Then when you sold the trade name, did you suppose you sold that?

A. No, sir, we did not.

Mr. COCHRAN: Defendants object to the question, because there is no evidence that the trade name ever was sold. It is not mentioned in any contract, correspondence, or anything connected with this deal; and the question is simply misleading to the witness.

X Q. 271. Did you transfer any patent right to Herring-Hall-Marvin Company?

A. The Company did, yes, sir.

X Q. 272. What patent, or patents?

A. All those that we had on hand at the time.

X Q. 273. Were there any existing patents at that time; if so, what were they?

A. I have no record of those, Mr. Maxwell, at the present time.

X Q. 274. I ask you whether there were any?

A. I think there was. Herring-Hall-Marvin Co. have a record of everything of that kind; it is all at your fingers' ends.

X Q. 275. Do you know of any patents?

A. I do know of one.

X Q. 276. What was that?

A. It was a round door safe; that patent was taken out
318 by Joseph L. Hall; I don't know the date or number.

X Q. 277. Do you know of any other patent except for a round door safe?

A. I don't know of any other; I know there were others, that's all. They were most all at an end, didn't have very long to run. I don't remember anything about those now; they didn't impress themselves upon my mind.

X Q. 278. Why did you adopt the name "Hall's Safe Co.," for the Company which you organized in 1896?

A. Because I had a perfect right to.

X Q. 279. What advantage was there in doing so?

A. That was my own name; I had a great reputation for making

safes, probably a greater reputation than anybody in the business; never knew any business but the safe business.

X Q. 280. You mean the name "Hall" had a great reputation?

A. I had a great reputation myself.

X Q. 281. But you didn't adopt the name of Edward C. Hall & Co.?

A. That don't make any difference, there were others connected with the family right in the Company; and we just took the general name of the "Hall's Safe Co."

X Q. 282. Why did you take the general name?

A. Because there were more than one, and we were a corporation.

X Q. 283. But you have said that you individually had a great reputation?

A. My brothers had a great reputation also.

X Q. 284. Why did you not put your brother's name in then?

A. We had the family name.

X Q. 285. Then that was the name that had a great reputation?

A. The name Hall, the Halls that were connected with it, all had a great reputation.

X Q. 286. Was it for the purpose of availing yourself of that reputation that you took the name?

A. Just as much as I know of it; we didn't know anything else but the safe business; and we knew pretty near everybody connected in the safe business; and they all knew us as safe manufacturers. After we started they came to us to buy goods, have been buying from us ever since.

X Q. 287. You have answered a great many things that I
319 have not asked you; won't you please answer the question which I put to you? (Question No. 286 above read to witness.)

A. We took the name to avail ourselves of the reputation of the Halls, and we had no other name to take; that was our family name. That name belonged to nobody else in the safe line either.

X Q. 288. Did you think that was a great advantage to you to avail yourself of the reputation of that name by putting it in your corporate title?

A. Yes, sir.

X Q. 289. You testified on that subject in the deposition you gave in the case of Herring-Hall-Marvin Safe Co. against the Hall's Safe & Lock Co., of Illinois, did you not?

A. Yes, sir.

X Q. 290. I call your attention to page 500 of that deposition, and ask you whether you testified as follows:

"Question. You adopted the name, of course, with the intention of reaping such commercial advantages therefrom as you might be able to do? Answer. That is right."

A. That's all right yet.

X Q. 291. Did you give any directions to Kinsey, Ranier & Thomson, or other agents of the defendants with respect to the ad-

vertisements that Mr. Cochran advised you to discontinue except the directions contained in the circular that has been offered in evidence?

A. We have no agents at all.

X Q. 292. By agents I mean those who sold your product, your dealers, your representatives?

A. Kinsey, Rainer & Thomson were dealers of ours and other dealers we gave them no directions whatever with regards to what advertising they shall do.

X Q. 293. You have testified that your counsel Mr. Cochran, advised you to discontinue certain advertisements; what I want to know is whether you gave to your agents, dealers or representatives any instructions on that subject other than as contained in the printed circular that has been offered in evidence?

A. I don't call to mind any at the present time.

X Q. 294. Did you get any report from them about what advertisements they were making?

A. Not that am aware of.

X Q. 295. Who is your representative in San Francisco?

A. We have a dealer there by the name of the Howe Scale
320 Company, a very responsible and respectable concern.

X Q. 296. Did you give them any directions?

A. Not that am aware of.

X Q. 297. Do you know whether you sent them that printed circular?

A. I presume we did. That is no directions to do any advertising, though.

X Q. 298. I show you printed advertisement of the Howe Scale Co., which I offer in evidence as Plaintiff's Exhibit No. 49; is that the concern that represented you in San Francisco?

A. I suppose it is, as their name is printed on it. They don't represent us at all, Mr. Maxwell; they buy our goods from us, and sell them again.

X Q. 299. See anything objectionable in that advertisement?

A. Not to me, I don't; it is one of those things that they have got the "1840-1904, 64 years"; but they have got a right to put on there whatever they please, so far as I am concerned.

X Q. 300. Did you print cards containing references to your antiquity?

A. Nothing that I know of outside of that catalogue of 1902, or whatever it is there, which was withdrawn, recalled.

X Q. 301. But the Exhibit to which I have just called your attention?

A. We had nothing to do with that.

X Q. 302. Mr. Hall, won't you please wait till I ask you the questions? You don't do it.

A. My impulsiveness, you know, is not for the purpose of being antagonistic. I will try and hold back.

X Q. 303. I was about to call attention to the fact, that the advertisement of the Howe Scale Co. at San Francisco was in 1904; and I call your attention to a printed card advertising the Hall's

Safe Company; and ask you if you recognize that as one of the cards that you printed and circulated?

A. Never saw the card before; never ordered it printed and never paid for it.

X Q. 304. Do you know Frank G. Benson?

A. Never heard of him that I know of.

X Q. 305. This card is printed, and contains the name of the Hall's Safe Co.; and you say that that was not authorized? (Handing.)

321 A. I didn't authorize it.

X Q. 306. You say it was unauthorized by the Hall's Safe Company?

A. I surely did say so.

X Q. 307. Do you recognize the illustrated circular that I now show you? (Handing.)

A. Yes, sir, I recognize it.

X Q. 308. What is it?

A. It looks like a leaflet of the Herring-Hall-Marvin Co. with an old cut of Hall's Safe & Lock Co. safe on it.

X Q. 309. When was that used?

A. Oh, it has not been used for, I don't know when it was used, Mr. Maxwell—probably after 1892; it has the Herring-Hall-Marvin name on, unless it has been printed since. It has an old cut of the Hall's Safe & Lock Co. printed on it.

X Q. 310. Was that used when you were President of the Herring-Hall-Marvin Co.?

A. I think they used similar to that in 1892.

Mr. MAXWELL: I will offer that in evidence, and ask that it be marked Plaintiff's Exhibit No. 51.

X Q. 311. Do you recognize the circular that I now show you purporting to be issued by the Kinsey, Ranier & Thomson Co., Incorporated? (Handing.)

A. I think I recognize that; I don't know whether I ever saw it before; but it has got their name on it.

X Q. 312. You are President of that Company?

A. No, I am not—never was.

X Q. 313. What office do you hold in the Kinsey, Ranier & Thomson Company?

A. I am President of the Kinsey, Ranier, Thomson Co., but it is a different Company from that; it is not of the same name; ours has the "The" in front of it, and the "Company" behind it.

X Q. 314. Is that the only difference in the name?

A. That is the difference in the name; and the difference in the Company, too.

X Q. 315. What is the difference in the Company?

A. Why, Kinsey, Ranier & Thomson, Incorporated, was organized several years ago. The Company of which I am President is the Kinsey, Ranier & Thomson Company, organized under the State laws of the State of New York, in February, 1903.

X Q. 316. Did the defendant Company have any agree-
322 ment with any concern having the name of Kinsey, Ranier & Thomson other than the agreement of which Plaintiff's Exhibit No. 47 is a copy? (Handing.)

A. In the 11th clause of this Agreement, Pl'ff's Exhibit No. 47, it says, "This agreement shall not be assigned by the said form except it is understood and agreed between the parties that in case the said firm organize a corporation this agreement shall be assigned to said corporation."

X Q. 317. Then did Kinsey, Ranier & Thomson, the firm mentioned in Pl'ff's Exhibit No. 47, organize a corporation?

A. Yes, sir.

X Q. 318. When?

A. Within a few months after that agreement.

X Q. 319. And the business was then carried on by Kinsey, Ranier & Thomson, Incorporated, until you formed The Kinsey, Ranier & Thomson Company?

A. That is correct.

X Q. 320. And this circular that I have been calling your attention to was the circular of the Kinsey, Ranier & Thomson, Incorporated, who since then organized The Kinsey, Ranier & Thomson Co.?

A. I suppose that is the case.

(Said circular now offered in evidence marked as Plaintiff's Exhibit No. 52.)

X Q. 321. What use was made of the catalogue, Plaintiff's Exhibit No. 45?

A. They are sent out to our dealers, and those who do an export business, for the purpose of getting orders from the catalogues.

X Q. 322. Prior to that Export Catalogue of 1904, did you have other export catalogues?

A. Yes, sir, one other export catalogue.

X Q. 323. Did you print on that other export catalogue a statement that you were sixty or sixty-two years old?

A. I don't think so, I am not certain. I don't know anything about that now, I cannot call it to memory, unless you have a copy of it to show me.

X Q. 324. I have a copy of it that I will show you, and offer in evidence marked as Plaintiff's Exhibit No. 53, (Handing to witness.)

A. This is a catalogue that was gotten out and printed at the same time as that other Plaintiff's Exhibit No. 18.

X Q. 325. Was that the export catalogue that you referred
323 to that was issued prior to Exhibit No. 45?

A. Yes, sir.

X Q. 326. You observe that on this Export Catalogue No. 53 you have got your statement as usual, "1840 to 1900, sixty years," do you?

A. I don't believe I observed that half as quick as you did; that is on there.

X Q. 327. Did you get an export catalogue out in 1902?

A. That was the first export catalogue that we got out; and this other one in 1904 was the next one. I don't know of one in 1902.

X Q. 328. I call your attention to page 462 of that deposition in the Chicago case given by you in Cincinnati December 28, 1904; and ask you whether you testified as follows:

"Question. What was the Hall's Safe & Lock Works?

"Answer. It was a fictitious name used by the Herring-Hall-Marvin Co. for the purpose of trying to convince the public that we were running the old business of Hall's Safe & Lock Co., I suppose."

Did you so testify?

A. Yes, sir.

X Q. 329. Will you let me have a copy of that letter of June 18, 1896, which was referred to in the correspondence you have offered in evidence with respect to the reduction of your salary, to-wit; in Defendants' Exhibit No. 396?

A. I think that you will find that letter in the Herring-Hall-Marvin letter-book.

X Q. 330. Have you a copy of it?

A. That I am not aware of.

X Q. 331. You consented to a reduction of your salary that year, did you?

A. Whether by letter or not, I don't remember whether I did, or not; but I agreed with them on the reduction of the salary that year.

X Q. 332. That was on account of the fact that the condition of the Company had not been successful, you had been compelled to pass a dividend, hadn't it?

A. That was on account of the passing of the dividends; business was running along very nicely at that time. They were not making any money at that time, that was not so much the fault of the business as the inheritance they received from the different concerns in the way of expense.

324 X Q. 333. It was because the Company were not earning money?

A. Because the Company were not paying dividends, excuse me.

X Q. 334. What signs were on the salesroom of Hall's Safe & Lock Co. in the Burnet House Block?

A. Hall's Safe & Lock Co.

X Q. 335. Was "Hall's Safes" also a sign there?

A. No other sign at all but Hall's Safe & Lock Co.

X Q. 336. Do you remember that?

A. Yes, sir.

X Q. 337. Was there a safe in front of that storeroom?

A. Not during the time Hall's Safe & Lock Co. was in the business.

X Q. 338. During what time then?

A. I don't know as there was ever a safe in front of there myself.

X Q. 339. Have you frequently seen the sign over the branch of Hall's Safe & Lock Co., in Chicago?

A. I think I must have been in their store.

Mr. COCHRAN: You occasionally ask those questions about branch

stores. It is just a habit on your part, or are you trying to catch the witness?

The WITNESS: It was not a branch. Those people owned that business up there, and owned all the signs on it, too, and paid for it; owned all the safes in the store except a few that they consigned there.

X Q. 340. I refer to the store in Chicago that is conducted by A. L. Dean & Co., during the time the Hall's Safe & Lock Co. was in existence, and thereafter during the existence of Herring-Hall-Marvin Co. Have you seen that store and the signs displayed thereon?

A. I have been in that store four or five times.

X Q. 341. In what years?

A. From the year 1892 up to the present time.

X Q. 342. What signs were over the store, and displayed in the windows?

A. I don't remember what sign was over the store, or how the signs were on the windows. I think "Hall's Safes," was on the windows at one time.

X Q. 343. What time?

A. I don't know what time—one time I will say.

X Q. 344. Do you know of any time when "Hall's Safes" was not on the windows?

A. I don't know whether they are there now or not.

325 X Q. 345. They were there the last time you saw the place?

A. That I could not tell you. I don't know.

X Q. 346. Have you any recollection of the name of the concern that was on there?

A. A. L. Dean & Co. was there, and Hall's Safe & Lock Co. was there; but what other signs were there I never noticed.

X Q. 347. Then you remember among the signs, at any rate, was the name of "Hall's Safe & Lock Co." and "Hall's Safes"?

A. I don't know whether "Hall's Safe & Lock Co." was up there or not. I think "Hall's Safes" was up on the window. I was very thoroughly acquainted with those gentlemen, but I never stopped to look and read their signs. Nearly every time that I have been in Chicago I would go in, in the morning and leave there in the evening, and probably after I got in the store in the morning didn't go out only to lunch and back again.

X Q. 348. Then you have not intended by your testimony to say that the sign "Hall's Safe & Lock Co." which was over that store, during the existence of Hall's Safe & Lock Co., was ever removed until it was removed within the last few months by order of the United States Court, have you?

A. I don't think they were ever in that store under the name of Hall's Safe & Lock Co. previous to Herring-Hall-Marvin Co. They were in the store on Washington Street when the contract was first made, to my recollection, and in getting a larger store they moved around on Wabash Avenue. The signs there were not the original

signs that they had when they were with the Hall's Safe & Lock Co.

X Q. 349. What signs were they?

A. That I don't know, but they would never fit on the same building.

X Q. 350. I am not asking you whether it was the same board and the same paint.

A. That part of it I don't know.

X Q. 331. Then you cannot tell us what words were on there?

A. No, but they were never there to my recollection when they were dealers for Hall's Safe & Lock Co.

X Q. 352. What was never there?

A. Why, A. L. Dean & Co.

326 X Q. 353. You mean the words "A. L. Dean & Co."?

A. That firm I am talking about who handled Hall's safes.

X Q. 354. Mr. Hall, I have been asking you about the "signs" that were displayed at the place or places in Chicago at which A. L. Dean & Co. sold Hall's Safes. My question is, whether or not the sign of Hall's Safe & Lock Co., which was there when the old Hall's Safe & Lock Co. was engaged in business and A. L. Dean & Co. were selling their product, were removed, or the wording changed until within the past few months when it was changed by order of the United States Court?

A. I can't tell you. You can get that information from them.

X Q. 355. Then you don't know anything on the subject?

A. That is what I have told you three or four times.

X Q. 356. You consented to their using the name "Hall's Safe & Lock Co." so you would naturally suppose that they would display that sign, would you not?

Mr. COCHRAN: I object to all this examination as not asking for a fact in the case, and suggest that Mr. Maxwell postpone his argument until the hearing.

The WITNESS: We consented under the conditions that they handle our goods exclusively.

X Q. 357. What announcement have you made to the public other than the circulars and advertisements that have been offered in evidence at this hearing?

A. What kind of announcements?

X Q. 358. With respect to your business?

A. I do not know as I get the gist of your question.

X Q. 359. Do you mean you do not understand my question?

A. That is what I mean to say.

(Question 357 now read to witness who further answered as below:)

The WITNESS: No announcements. The public are thoroughly familiar with our business and our standing.

X Q. 360. Have you solicited the customers of the old Hall's Safe & Lock Co. and Herring-Hall-Marvin Co.?

A. If I knew what customers you referred to, I could tell you.

We have solicited everybody to buy goods from us. That will probably include their customers.

X Q. 361. Is there a person of the name of Hall connected with Herring-Hall-Marvin Co. in St. Louis?

327 A. I have heard there was, an employee from there.

X Q. 362. Is he a member of your family?

A. He is a cousin, yes, sir.

X Q. 363. Were you invited to join the reorganization of the Herring-Hall-Marvin Co.?

A. As a stockholder, yes, sir.

X Q. 364. And as a creditor?

A. And as a creditor.

X Q. 365. And you declined to do so?

A. Surely did, for the reason I had no faith in the way that they ran their business. I knew they never could make a success of it. I don't think they ever will.

X Q. 366. Did you suppose when you left the company in 1896, and started the Hall's Safe Company, that the Herring-Hall-Marvin Co. would not succeed?

A. Yes, sir—and I suppose so now.

X Q. 367. At the time Gray & Pownall were appointed Receivers of Herring-Hall-Marvin Co., did you suppose that the company were going out of business?

A. No; a company of that size, I supposed they would change hands—big assets there.

X Q. 368. You mean you supposed they would be sold out, did you?

A. They were. If I supposed so my supposition was correct.

X Q. 369. My question is, whether at the time the receivers were appointed, you expected that Herring-Hall-Marvin Co. would go out of business and be sold out?

A. If I expect so, my expectations would be realized, because they did.

X Q. 370. Then you did so expect?

A. I say that I did.

X Q. 371. Please answer if at that time, and shortly afterwards, you expected the Herring-Hall-Marvin Co. would be out of business and sold out?

A. They were.

X Q. 372. Will you be kind enough to answer my question?

A. Well, I think I have.

X Q. 373. I have asked you, Mr. Hall, whether when you found that Herring-Hall-Marvin Co. was put in the hands of Gray and Pownall as receivers, you expected, or shortly after that expected that Herring-Hall-Marvin Co. would be sold out and go out of business?

A. You say I did—yes.

328 X Q. 374. I did not say you did.

A. You don't ask me the question; you say that I did do it. I say that I was not disappointed if I did.

(Question 373 now read to witness, who further answered as below:)

The WITNESS: I don't remember whether I expected they were going out of business. I would be very foolish to have done so.

X Q. 375. What, if any, disadvantage would you have been under if you could not have adopted the name "Hall's Safe Company" and had adopted or been required to adopt some name like "Continental Safe Co."?

A. I don't think we would have been to any very great disadvantage. We had to advertise our name as it was. We had a big reputation, everybody knew us; we expected that our reputation would give us a foothold. There was nobody in the business by the name of Hall, or making Hall's Safes at the time we started in. We started in and we not only expended our capital but a great deal more, ran in debt to get there and establish our business, and have been pushing it ever since. I think that the safe trade in general has felt our exertions.

X Q. 376. In what way?

A. On account of the amount of business we have done, and the sales we have made—goods we have made.

X Q. 377. Under the name of the Hall's Safe Company?

A. Yes, sir; we did not do business under any other name.

X Q. 378. Under the representations that you had been in business for "60 years" and were making "Old Reliable Hall's Safe"?

A. Those representations were made for a very short time, after we had been in business for a long time and had established a reputation then our competitors object to it, and we withdrew them all and notified our agents to stop doing anything of that kind to interfere with our neighbors—give them a chance to sell safes and pay their rent, if they wanted to.

X Q. 379. I have asked you about any notifications that you had given, and you have so far told me that you gave no instructions except as contained in that circular letter; if you now recall any other that you gave I would like them?

A. That is the instruction that we gave, the circular letter; you have that.

329 X Q. 380. You mean Defendants' Exhibit No. 339? (Handing.)

A. Yes, sir.

Redirect examination by Mr. COCHRAN:

R. D. Q. 1. Mr. Hall, if I understand you, you believe that your grandfather was in the safe business, your father was in the safe business, and you and your brothers have been in the safe business, constituting three generations of safe-makers; is that correct?

A. Yes, sir.

R. D. Q. 2. If I understand you, you believe that members of the Hall family to which you belong have been in the safe business for sixty years; is that correct?

A. Yes, sir, in that neighborhood.

R. D. Q. 3. As I understand it, you believe that safes made by the Hall's Safe Company made a good record in the Chicago fires and the Boston fires, and other fires?

A. Yes, sir.

R. D. Q. 4. And that you are making safes exactly like those so far as fire-proof protection is concerned?

A. Yes, sir.

R. D. Q. 5. Do you ha uny recollection of the volume of business done by Hall, Carrol . Co., Hall, Dodd & Co., and Joseph L. Hall & Co.?

A. No, sir, I don't have any recollection, but I remember they were concerns of no very great magnitude.

R. D. Q. 6. How large were the buildings occupied by those concerns as compared with the buildings occupied by Hall's Safe & Lock Co.?

A. Well, do you refer to the factory?

R. D. Q. 7. Yes, sir.

A. The Hall, Carroll & Co. factory, which was the same factory that Hall, Dodd & Co., used, I suppose was about one-fifth of the size of where we are now.

R. D. Q. 8. You mean one-fifth of the size of the factory of the Hall's Safe Co.?

A. Yes, sir.

R. D. Q. 9. Your Company?

A Yes, sir.

R. D. Q. 10. How did it compare in size with that of the Hall Safe & Lock Company?

A. How did what?

R. D. Q. 11. The factories occupied by Hall, Dodd & Co.,
330 Hall, Carroll & Co., and Jos. L. Hall & Co. compare with the Hall's Safe & Lock Co. factories?

A. There were not near as large as the Hall's Safe & Lock Company.

R. D. Q. 12. Your connection with Hall's Safe & Lock Co. began shortly after it was incorporated?

A. Yes, sir.

R. D. Q. 13. They were then occupying buildings at the corner of Plum——

A. And Pearl.

R. D. Q. 14. Did that business grow any during your connection with it?

A. Yes, sir, when they first occupied those buildings they were 100 feet square and two stories high, when I first went in with them.

R. D. Q. 15. Then how did they expand?

A. They expanded, first had to add on another story; then by taking property as fast as they could get it from the different surrounding neighborhood, sometimes connected, sometimes buildings between, until up in the year that father died, we occupied almost the entire space of one block, and probably more than half on the other.

R. D. Q. 16. In a general way, how much larger was the factory of Hall's Safe & Lock Company in 1892, than it was in 1868?

A. Well, it was three or four times larger.

R. D. Q. 17. How did the business of Hall's Safe & Lock Com-

pany from March 1889, to May 1892, compare with the business of the Hall's Safe & Lock Co., prior to March, 1889, as to volume?

A. It was greater from 1889 to 1892 than it was prior to that time.

R. D. Q. 18. Who were interested in the management of the Company from March, 1889, to May, 1892?

A. I was President of that Company and Treasurer of the Company, and Mr. W. H. Hall was Vice President, Mr. R. T. Pullen, was Secretary; and we had in the Board of Directors, Mr. R. T. Pullen, W. H. Hall, Chas. O. Hall, and myself.

R. D. Q. 19. And Marling?

A. And Marling.

R. D. Q. 20. Were your brothers all engaged in the business during that period?

A. Yes, sir, they were always engaged in the business ever since they were old enough to work.

331 R. D. Q. 21. Then whatever reputation was made by the Company during that period was made by the Halls and Mr. Pullen?

A. Yes, sir.

R. D. Q. 22. Please look at the agreement marked "Defendants' Exhibit 270," refresh your recollection, and state whether or not you delivered any patents to Herring-Hall-Marvin Co., if so, how many? (Handing.)

A. Assignment of eighteen letters of patents.

R. D. Q. 23. By whom?

A. By the Hall's Safe & Lock Company to Jennings S. Cox, and Anson G. P. Segur.

R. D. Q. 24. Is that all the patents you delivered?

A. Oh, the Trustees of Joseph L. Hall to same, assignment of 14 letters of patents.

R. D. Q. 25. Do you know that those patents were delivered to the Union Trust Company as appear on that schedule?

A. Yes, sir.

R. D. Q. 26. Do you know of any trade-marks that were turned over to the Union Trust Company at that time?

A. No, sir.

R. D. Q. 27. Do you know of any trade names that were turned over to the Union Trust Company at that time for Cox & Segur?

A. No, sir.

R. D. Q. 28. Was anything turned over to the Union Trust Company for Cox & Segur except the things mentioned in that agreement and schedule?

A. No, sir, that agreement and schedule is the contract.

R. D. Q. 29. I will ask you if your attention has ever been called to Plaintiff's Exhibit No. 49 before; if so, when and how? (Handing to witness.)

A. Never before to my knowledge; this is the first I have seen of it.

R. D. Q. 30. The Plaintiff's Exhibit No. 51 shows on the door of safe illustrated the title "Hall's Safe & Lock Co." (Handing.) Can

you state how long cuts were used by the Herring-Hall-Marvin Co. with the name "Hall's Safe & Lock Co." thus illustrated on safe doors?

A. I cannot; but I can state how it is possible sometimes that we do use those. When they get in a big hurry for cuts, and find that they have not any of a late cut on hand, they have all
332 been sent out, they go to the cupboard where they keep electrotypes, they pick up a cut, probably an old cut, and use that to get the circulars out in a hurry.

R. D. Q. 31. You have no means of telling when this particular Exhibit was printed?

A. No, sir.

Recross-examination by Mr. MAXWELL:

R. X Q. 1. I show you three electrotype cuts, together with the impressions taken from them, so that you can read them more readily, and ask you whether you recognize these as electrotypes used by the Hall's Safe & Lock Co., I wish to mark them and offer them in evidence as Plaintiff's Exhibits No. 54, 55 and 56. (Handing.)

A. I recognize the name of the Hall's Safe & Lock Co. on them, and I should judge that they had been used by them.

And further deponent saith not.

(Signed) EDWARD C. HALL.

STATE OF OHIO, *Hamilton County, ss:*

I, D. H. Pottenger, a notary public in and for the county aforesaid, duly commissioned and qualified, do hereby certify that W. W. Winder, Severin Ebel, Alfred W. Macbrair, Max Palm, Wm. H. Hall and Edward C. Hall were by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth before giving their depositions aforesaid and that by agreement of counsel their said depositions were thereafter taken in shorthand and transcribed by Douglas A. Brown, an expert stenographer and a disinterested party, and the signatures of the witnesses, W. W. Winder, Severin Ebel, Alfred W. Macbrair and Max Palm to their depositions aforesaid were waived by consent and agreement of counsel for the parties; that the said depositions of W. H. Hall and E. C. Hall were by them respectively subscribed in my presence; that the aforesaid depositions of all of said witnesses were taken at the time and place in the annexed notice specified, and were continued from day to day as above set forth; that I am not
333 counsel, attorney, or relative of either party nor otherwise interested in the event of this suit.

In testimony whereof, I have hereunto set my hand and official seal, this 4th day of March, 1905.

D. H. POTTENGER,
Notary Public, Hamilton County, Ohio.

Notice to Take Depositions.

STATE OF OHIO, *Hamilton County, ss:*

Circuit Court of the U. S., Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE COMPANY, Plaintiff,
vs.
THE HALL'S SAFE CO. ET AL., Defendants.

The plaintiff will take notice that on Tuesday, the 7th day of February, A. D. 1905, defendants will take the depositions of Edward C. Hall, Wm. H. Hall, Severin Ebel, Max Palm, Wm. C. Macbrair, W. Winder and sundry witnesses, at the office of W. Cochran, No. 313 Johnston Building, Cincinnati, in the County of Hamilton, in the State of Ohio, between the hours of eight A. M. and six o'clock P. M. of said day, and that the taking of the same will be continued from day to day, between the same hours, until completed; said depositions to be used as evidence in the trial of the above entitled cause.

W. C. COCHRAN,
Attorney for Def'ts.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived, also all exceptions as to time.
Done at Cincinnati, this 3rd day of February, A. D., 1905.

L. MAXWELL, JR.,
Attorney for Pl'ff.

334 *Subpœna.*

STATE OF OHIO, *Hamilton County, ss:*

To R. H. Walker, in Cincinnati Township, Greeting:

You are hereby commanded to subpœna Alfred W. Macbrair, to appear before me, the undersigned notary public in and for said County, at office of Macbrair Lithographing Co., in said Township, on the 8th day of February, 1905, at 2:30 o'clock P. M., to give testimony and the truth to say, in an action pending in the Circuit Court of the United States for the Southern District of Ohio, No. 5893, wherein The Herring-Hall-Marvin Safe Co. is Plaintiff, and The Hall's Safe Co. is Defendant; and not depart without leave under penalty of law. And of this writ you will make legal service and due return.

Witness my hand and seal this 8th day of February, A. D., 1905.
[SEAL.] D. H. POTTENGER,
Notary Public, Ham. Co., Ohio.

Endorsed: Returnable on the 8th day of February, 1905.

I certify that the within and above is a true copy of the original writ, and of the indorsements thereon.

STATE OF OHIO, *Hamilton County, ss:*

R. H. Walker being first duly sworn says that he served Alfred Macbrair, Wednesday, February 8, 1905, at 12:30 o'clock, P. M., by delivering to him a true copy of the within writ, personally with all the endorsements thereon.

R. H. WALKER.

Sworn to before me and subscribed in my presence, this 8th day of February, 1905.
[SEAL.] D. H. POTTENGER,
Notary Public, Ham. Co., Ohio.

25 cents for service.
20 cents mileage.

Subpœna.

THE STATE OF OHIO, *Hamilton County, ss:*

To R. H. Walker, in Cincinnati Township, Greeting:

You are hereby commanded to subpœna Max Palm,
335 to appear before me, the undersigned Notary Public in and for said County, at law office of W. C. Cochran, 313 and 314 Johnston Bldg., Cincinnati, in said Township, on the 9th day of February, 1905, at 10 o'clock A. M., to give testimony and the truth to say, in an action pending in the Circuit Court of the United States, for the Southern District of Ohio, No. 5893, wherein The Herring-Hall-Marvin Safe Co. is Plaintiff, and The Hall's Safe Co., is Defendant; and not depart without leave under penalty of law. And of this writ you will make legal service and due return.

Witness my hand and seal this 8th day of February, A. D., 1905.
[SEAL.] D. H. POTTENGER,
Notary Public, Ham. Co., Ohio.

Endorsed: I certify that the within and above is a true copy of the original writ, and of the indorsements thereon.

STATE OF OHIO, *Hamilton County, ss:*

R. H. Walker being duly sworn says that he served Max Palm, Wednesday, February 8, 1905, at 2:10 o'clock P. M., by delivering to him personally a true copy of the within writ with all the endorsements thereon.

R. H. WALKER.

Sworn to before me and subscribed in my presence, this 8th day of February, 1905.

[SEAL.] D. H. POTTENGER,
Notary Public, Ham. Co. Ohio.

25 cents for service.
20 cents mileage.

And afterwards, to-wit: on the 29th day of March, A. D., 1905, the following stipulation was filed in the Clerk's Office of the Court aforesaid, which said stipulation is clothed in the words and figures, following, to-wit:

Stipulation.

Circuit Court of the United States, Southern District of Ohio, W. D.

336 No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY ET AL.

Stipulation.

To save the trouble and expense of taking depositions to prove the following facts it is hereby, at the request of defendants, stipulated and agreed by and between counsel for the respective parties, that:

1. Plaintiff established a branch in Chicago, Ill., at the corner of Lake and Dearborn Streets, June 1st, 1904, and that the photograph marked "Defendants' Exhibit No. 399" taken August 28th, 1904, is a correct picture of the signs put up by plaintiff and still maintained over and about said branch store; that up to said June 1st, 1904, plaintiff had no branch or other place of business in Chicago, but sold large amounts of goods there by salesmen.

2. That plaintiff moved into a store in Washington Street, St. Louis, Missouri, about the spring 1901, and caused signs to be put up over the doors and on the doors and windows and front, of said store as shown in the photograph marked "Defendants' Exhibit No. 400," taken August 27th, 1904.

3. That plaintiff has for several years maintained a store at No. 400 Broadway, New York City, and that until very recently, the signs over the doors and on the windows of said store have been as represented in the photographs marked "Defendants' Exhibits Nos. 401 & 402," taken August ——, 1904.

4. That plaintiff has recently changed the signs on its New York store, and such signs are correctly shown in the photograph marked "Defendants' Exhibit No. 403."

5. That plaintiff maintains a branch store in San Francisco, Cal., being the safe store formerly occupied by Hall's Safe & Lock Co. and Herring-Hall-Marvin Co., and that the signs on its front are correctly represented in the photograph marked "Defendants' Exhibit No. 404," taken August 31st, 1904.

6. That plaintiff opened a branch store in Baltimore, Md., just after the great fire, at No. 304 Lexington St., and a little later moved said store to the Hoen Building, corner of Lexington and North

Streets in said city; that signs were put up on said store in which the name "Hall's Safe & Lock Company" was given the same prominence as that of "Herring-Hall-Marvin Safe Co."; that
337 plaintiff caused advertisements in large type to be inserted in the Baltimore papers in February, 1904, similar in all respects to Defendants' Exhibit No. 208; that in March, 1904, plaintiff caused advertisements in large type to be prominently displayed in the Baltimore papers as follows:

In the Baltimore News, March 1st, 3rd, 5th, 8th and 10th; In the Baltimore Sun, Feb. 28th, March 1st, 5th, 7th, 9th and 11th; In the Baltimore American, March 3rd, 6th, 8th, and 10th; In the Baltimore Morning Herald, March 1st, 3rd, 7th, 10th and 12th; that each of said advertisements is in the words and figures and displayed to the extent shown in Defendants' Exhibit No. 405, which exhibit was cut from The Baltimore Sun of March 1st, 1904; that the street address and telephone numbers given in said advertisements as the address and telephone numbers of Hall's Safe & Lock Company of Cincinnati, Ohio, were the address and telephone numbers of plaintiff's branch store in Baltimore Md.; that prior to 1904 plaintiff has not maintained a store in Baltimore, Md., had not caused its name to be inserted in the City Directory of Baltimore and had not advertised in the Baltimore papers; that for two years prior to 1904, Charles W. Coggins had been engaged in selling the product of The Hall's Safe Company of Cincinnati, in Baltimore, and vicinity, and had maintained a store in said city on which the name of The Hall's Safe Company had been prominently displayed, and prior to February, 1904; said Coggins had sold in that time, two hundred and sixty-six safes made by The Hall's Safe Company.

7. That plaintiff caused an advertisement to be inserted in the St. Louis Directory for 1904, under the head of Safe Manufacturers, as follows:

"Hall's Safes. Hall's Safe & Lock Company, 706 & 708 Washington Ave. Largest Safe Store and most complete stock in the United States," etc.; the address above given being the store of The Herring-Hall-Marvin Safe Co., in St. Louis, Mo.

And in the General Directory for St. Louis, 1904, in its alphabetical order, plaintiff caused to be inserted in displayed type, "Hall's Safe & Lock Company, 706 Washington Ave."; the address given being the store of Herring-Hall-Marvin Safe Co. in St. Louis.

8. That plaintiff caused an advertisement to be inserted in the Chicago Directory of 1904, at page 2730, in the words and figures, following, to-wit:

"Hall's Safe & Lock Company. Herring-Hall-Marvin Safe
338 Co., Successors. Manufacturers of Hall's Standard Safes. Bank, Vault and Safe Deposit Work, 32 & 34 Dearborn St., cor. Lake St. Factory, Hamilton, Ohio."; the address being that of plaintiff's new store in Chicago, Illinois.

LAWRENCE MAXWELL, JR.,
Counsel for Plaintiff.

W. C. COCHRAN,
Counsel for Def'ts.

Cincinnati, Feb. 24/'05.

And afterwards, to-wit; on the 13th day of June, A. D. 1905, the following additional stipulation was filed in the Clerk's Office of the Court aforesaid, which said additional stipulation is clothed in the words and figures, following, to-wit:

Adaitional Stipulation.

United States Circuit Court, Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY ET AL.

Additional Stipulation.

Referring to the written stipulation between the parties, dated February 24, 1905, it is further stipulated, at the request of plaintiff:

That the defendants' safes were sold at No. 421 North Fourth Street in the city of St. Louis, Missouri, and that the following advertisements appeared in the St. Louis City Directory for 1904, on the same page as the first of the advertisements mentioned in paragraph 7 of said stipulation of February 24, 1905, to-wit:

"Hall's Safes, 421 N. 4th Street." "Herring-Hall-Marvin Safe Co. Manufacturers of Hall's Safes, 706 & 708 Washington Ave., Largest safe store and most complete stock in the United States. Vault doors, vault linings, bank and safe deposit work of every description. The only manufacturers directly represented in
339 St. Louis. Repair work of every description. Tels. Bell, Main 2685; Kinloch, D. 1808."

And on the following page, (2759) the following advertisement appeared:

"St. Louis Safe & Desk Co., Agents for Hall's Safes and Hibbard-Rodman-Ely Co.'s Bank, Safes, Vault work, desks and chairs, 421 North Fourth Street, Tels. Main 2469 & B. 865."

And that on page 847 of said directory appeared the following advertisement:

"Hall's Safe Co., 421 No. 4th."

That on page 2730 of the Chicago City Directory for 1904, The Hall's Safe & Lock Company of Illinois inserted the following advertisement:

"Hall's Safe and Lock Company, Largest manufacturers of safes, vaults, etc. in the world. 52 & 54 Wabash Avenue. Telephone Central, 4517."

And on page 2729 of said directory the following advertisement under the head of "Safe Experts";

"Hall's Safe & Lock Company, 52 & 54 Wabash Avenue."

LAWRENCE MAXWELL, JR.,
Counsel for Plaintiff.
W. C. COCHRAN,
Counsel for Defendants.

Cincinnati, Ohio, June 12, 1905.

And afterwards, to-wit; on the 13th day of June, A. D. 1905, an entry was made upon the journal of the court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry, Journal 8, Page 90.

Hearing Begun and Continued.

Hearing begun in the above entitled cause and continued until to-morrow at ten o'clock.

And afterwards, to-wit: on the 14th day of June, A. D. 1905, an entry was made upon the journal of the court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry, Journal 8, Page 91.

Hearing Concluded.

The hearing in this cause was this day concluded and the same was submitted to the court.

340 And afterwards, to-wit; on the 28th day of June, A. D. 1905, the following opinion of Judge Clark was filed in the Clerk's Office of the Court aforesaid, which said opinion is clothed in the words and figures, following, to-wit:

Opinion of Judge Clark.

In the Circuit Court of the United States for the Western Division of the Southern District of Ohio.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE CO. ET AL.

From a study of this case, and especially in the practical effort and operation of the defendant's methods of doing business, the conclusions at which I arrive may be stated very briefly, as a discussion of the evidence in the case, or of the legal issues, at length is not necessary and hardly to be expected, as able counsel, who have closely studied the case, will understand the court's ruling just as well from a short statement of conclusions as they would from a most elaborate discussion in detail.

It is of the very first importance that the court's time, or sufficient of that time should be given to a careful study of the case, but a statement at great length, or in detail, of the court's views and of the court's mode of reasoning out the case is not so important.

Now, the entire situation of these parties must be looked at as that situation now exists, and that situation must be interpreted and ruled upon in the light of the previous history of the relations between these parties.

It is not controverted that plaintiff comes into court with all the rights, powers and privileges which belonged to and could have been

asserted by the original Hall's Safe & Lock Company and its immediate vendee. So that one way of viewing this case, and the correct way of viewing it, in my opinion, is to conceive for the moment that this is a suit by the immediate vendee of the original Hall's Safe & Lock Company against these defendants.

In this view it is important in determining the present rights of these parties to consider what was acquired by the immediate vendee of the original Hall's Safe & Lock Company, and when the contract is studied, and proper and substantial effect given thereto,
341 according to the manifest purposes and intentions of the parties, no difficulty is met with in reaching the conclusion that the vendee acquired all the property of the Hall's Safe & Lock Company; second, that it acquired, and that it was intended it should acquire by that purchase, and the large consideration paid the established trade and good will of the original Company, and to manufacture, put upon the market and sell the Hall Safes, as then known to the market, and the reputation of which and the demand for which were well established and assured.

There can be no doubt, in view of this contract, both in its express terms and by implication, that this established trade and good will, and the demand for the Hall Safes as then known to the trade, constituted an exceedingly valuable part of the sale which took place between the Hall's Safe & Lock Company and its vendee, the Herring-Hall-Marvin Safe Company. There can be no doubt that it acquired the good will, with the right to use the trade name, if it chose to do so, and undoubtedly with the exclusive right to manufacture and sell the trade product known to the markets of the country as the Hall's Safes.

The fact that there was a provision in the contract that the original Hall's Safe & Lock Company should go out of business and wind up is of itself quite conclusive in support of these several propositions.

The only way in which the plaintiff could then acquire the benefits of the contract would consist in its ability to avail itself exclusively of the right to use the Hall's Safe & Lock Company's trade name, and to make and sell exclusively the well known safe, then called in the markets of the country Hall Safes.

Evidently I think any mode of doing business by others in a way by which the public would in all probability be confused or misled into buying the safes of other manufacturers, upon the idea that they were securing the original Hall Safes, would deprive the complainant of the full benefits of its contract and would constitute an infringement upon its trade rights.

I think it is clear that the effect of this sale and the contract was to place the plaintiff in the position of one having and using a legally valid and well established trademark and trade name as against this defendant and the Hall brothers who organized the same, and that it could complain of a violation of its trade-mark, or of unfair or unlawful competition and the deception of the public just as much as if asserting its rights under a perfectly valid trade-mark, and

342 it is by no means certain that the contract, in its necessary effect, does not make the position of the plaintiff somewhat stronger than the ordinary trade-mark — plaintiff.

Now, when we turn to the evidence and to the name adopted by the defendant, and its striking similarity to the trade name of the original Hall's Safe & Lock Company; and still more, when we look to its method of advertising its business, the description of the safes, the historical recitals in that connection, and the claims made in relation to the standing of the defendants' safes in the past, and in past events, like some of the great fires of the country, and other points not necessary to be pointed out, it seems to me too clear to admit of doubt that the necessary effect of all of this literature under which the defendants' safes are put upon the market, with the description and claims in relation to same, and the powerful tests of time and events by which the value of the safes has been tested and proved is to mislead the public and the ordinary person going upon the market into the belief that he is purchasing the original Hall Safes, and that he is securing the very pattern and the very safe known for so many years as Hall Safes.

I cannot bring myself to think otherwise than that the trade name under which the defendant is operating, and the method in which it is marketing its product, and the claim and description in relation to its product, constitute a violation of the contract rights of this plaintiff, provided the plaintiff can successfully sustain a legal point made in the defense, and which point it now remains to consider.

The defendant's contention is that the sons of the original Hall who organized the first company have the right to use their own name in their business, and that although they were share-holders in the original company and received both directly and indirectly their share of the full benefits of the consideration paid in the sale of the established trade name and good will of that company, still, that as matter of law the legal entity of the corporation in which they were share-holders and the artificial person in the name of which that business was conducted was so different and distinct from the individual share-holders in the company, that the defendants, sons of the original Hall, who organized the present defendant Hall's Safe Company, are not bound or affected by that contract and that this suit cannot be maintained against the defendant

343 company; a corporation organized by them and now conducting business.

The general proposition that a corporation and its share-holders are distinct and different, in the legal conception, is well established and need not be disputed.

It is not to be doubted at all that the defendants, the Hall brothers, who organized the present defendant company, have a right to do business, to make safes, and to use their name of Hall in any proper way in the management of their business so long as their name and business are used and conducted under a trade name and other proper descriptions and explanations of their trade product as to avoid infringement upon the rights of the plaintiff company.

The sale which originally took place of the Hall's Safe & Lock Company was one which, in my opinion, must have originated with the share-holders themselves, as it involved closing out and abandoning completely a prosperous business, and the directory of the company, or the officers of the company, would be without power as such to abandon the corporate franchises, wind-up and sell out at voluntary sale.

In point of fact it cannot be doubted, upon this record, that the negotiations for that sale originated with the share-holders and that it was authorized by them, and that at the time it was clearly contemplated by them, as well as the purchasing company, that the business theretofore conducted under the trade name of the Hall's Safe & Lock Company would be closed out and completely abandoned, and that such was the basis on which such negotiations were conducted, the sale consummated and the large consideration paid.

The legal entity, the artificial corporation, as distinguished from the share-holders, has been often declared in the adjudged cases to be a fiction of law. This artificial person is organized and distinguished from the share-holders chiefly for public reasons, in order that capital may be contributed in shares toward a large aggregate necessary to set on foot and operate successfully large concerns in the development of the country, and in order that contributions to such an enterprise may be thus made which involve no risk to the person advancing the capital beyond the capital actually put into the corporate enterprise, in which respect they are distinguished from partnership enterprises.

The courts have said again and again that this fiction will not be permitted to stand as a cover to an injustice done by the
344 share-holders, and that when equity and good conscience require the courts will look through this fiction and this artificial person to the real and substantial fact of the transaction, or situation, which makes of the corporation a partnership, except in the fact that the share-holders are not responsible as partners. It is one of the cases in which, when necessary to do justice, a court of equity will look at the real substance, and not at the form of the subject matter of the litigation. It is within the province of a court of equity to disregard form when necessary to reach the substance involved in any subject matter of litigation, and to see that equity, and not injustice, has been done in such decree as it may pronounce upon the rights of the parties.

With this much said it is sufficient to announce finally that I conclude that the trade name or style used by the defendant, and the descriptions and representations under which it is attempted to find a market for its manufactured safes do not constitute a proper exercise of their right to use their own name, and that the method of marketing their product is an infringement upon the rights of the plaintiff.

Whenever and so long as the defendant is using a name which may or probably would be mistaken for the original trade name of the Hall's Safe & Lock Company it should exercise a proportionate amount of care and caution in the description of its business and in representations in respect of its goods which will reasonably insure

that the public is not misled and deceived into purchasing its goods under the belief that they are Hall Safes as made by the original Hall's Safe & Lock Company, for this is clearly a violation of the rights of the plaintiff.

It would not be difficult for the defendant by the trade name or style which it would adopt, or by the representations in literature which it disseminated to make clear the distinction between the company and the Hall safe which it is making and selling and the original Hall's Safe & Lock Company and the safes which it made and sold and which the plaintiff now has the exclusive right to make and sell.

The defendant has not adopted this course of dealing with the subject, but exactly the contrary, in my opinion, and I do not believe the man of average information going into the market would be able, in view of the trade name and the descriptions and representations under which the defendant is doing business, to distinguish its goods from the original Hall Safes as made by the
345 original Hall's Safe & Lock Company, and as now made by the plaintiff.

The defendant might easily avoid all of this as I have indicated by the trade name which it would adopt and by the descriptions and representations in its advertising matter, or by both put together, but as a trading concern and in its method of conducting its trade it should clearly distinguish itself and its trade name and its manufactured safes from the old concern and the old safes, and this it evidently has not done and is not doing, and its literature is certainly calculated to accomplish exactly the opposite result, and I have no doubt does so accomplish that result.

It results from these views, without saying more, that in my opinion the defendant is without the right to use the trade name which it is using, and to conduct its business under the description and representations in relation to its safes as it is doing, and that the plaintiff is entitled to an injunction and to an account, as set out in the bill.

It is not the province of this court to say or suggest what kind of trade name might be adopted by the defendant, or what descriptions or representations it might adopt in putting its safes upon the market. The power and duty of the court, is ended with decreeing that its present trade name and present mode of doing business constitute, in the court's opinion, an infringement upon the rights of the plaintiff.

The account may be taken by such person as may be agreed upon, and in the absence of any person agreed upon the clerk of the court will be, for special reasons, appointed Special Master to take the account, and I shall assume that his appointment will be without objection.

It is ordered accordingly.

CLARK, *Judge.*

And afterwards, to-wit, on the 6th day of July, A. D. 1905, an entry was made upon the journal of said court, which said entry is clothed in the words and figures, following, to-wit:

277

Entry, Journal 8, Page 104.

Decree.

This cause came on to be heard upon the bill of complaint of Herring-Hall-Marvin Safe Company and the answer thereto and replication and the cross-bill of The Hall's Safe Company,
346 the answer thereto and replication, and the evidence, and was argued by counsel and submitted to the court; on consideration whereof the court finds the issues in favor of Herring-Hall-Marvin Safe Company, and that it is the owner of the trade name and trade-marks and good will of Hall's Safe & Lock Company, and is entitled to the exclusive use and enjoyment thereof, and to the relief prayed in its bill. It is accordingly ordered, adjudged and decreed as follows:

1.

The cross-bill of The Hall's Safe Company is dismissed.

2.

The defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, and their successors, assigns, servants, agents, officers and employees are perpetually enjoined from carrying on the safe or vault business in the name of The Hall's Safe Company, as has been done, and is now done, or in any name similar to that of Hall's Safe & Lock Company, and from advertising, or in any manner designating their product as Hall's Safes or vaults, as has heretofore been done and is now done, and from marking their product in any manner with the name Hall's Safe Company, or any name so similar as to mislead the trade or cause mistake, and from representing in any manner that they are the Hall's Safe & Lock Company, or its successors, or that they are carrying on the business established by Joseph L. Hall, or that the safes which they manufacture are Hall's Safes; and from interfering in any manner with the exclusive right of Herring-Hall-Marvin Safe Company, its successors and assigns, to use the trade name and to possess and enjoy the good will of Hall's Safe & Lock Company

3.

The case is referred to Benjamin R. Cowen, who is appointed Master on account of his special qualifications, and by consent of the parties, to ascertain and report the damages to which the plaintiff is entitled in its own right, or as assignee of Herring-Hall-Marvin Company, and the profits for which the defendants are liable.

4.

The costs are adjudged against the defendants, Hall's Safe Company, Edward C. Hall, William H. Hall, and Charles O. Hall, and execution therefor is awarded.

347 And afterwards, to-wit; on the 13th day of July, A. D., 1905, the following Complainant's Exhibits were filed in the Clerk's Office of the Court aforesaid, which said Exhibits are clothed in the words and figures, following, to-wit:

New York Sun, April 15, 1901.
Plaintiff's Ex. No 5
J. L. L.
N. P.

A safe Safe is a sure safe-guard. Hall's Safes are safe Safes and have been for 60 years. Prices right.

Hall's Safes.

Your old safe exchanged for a modern "HALL." Second Hand Safes for sale. Safe moving and repairing.

MAIN SALESROOMS,

393 Broadway,

Tel. Franklin Nos. 307, 3133 and 3136. NEW YORK CITY.

New York Sun, April 18, 1901.
Endorsed: Plaintiff's Ex. No. 6. J. L. L., N. P.

Safes of all kinds from jewel cabinets to bank vaults. All guaranteed, by a sixty years' record. Prices right.
W. J. L. L.
N. P.

Hall's Safes.

Your old safe exchanged for a modern "HALL." Second Hand Safes for sale. Safe moving and repairing.

MAIN SALESROOMS,

393 Broadway,

Tel. Franklin Nos. 307, 3133 and 3136. NEW YORK CITY.

New York Sun, April 26, 1901.

May 1st (moving day) is close at hand — A new office or a new home is worthy of a new safe. "HALL'S," sold for 60 years, are "best." Prices right.

Pltff's. Ex. No. 7
J. L. L., N. P.

Hall's Safes.

Your old safe exchanged for a modern "HALL."
Second Hand Safes for sale.
Safe moving and repairing

MAIN SALESROOMS.

393 Broadway,

Tel. Franklin Nos. 307, 3133 and 3136. NEW YORK CITY.

Endorsed: Pltff's. Ex. No. 8. J. L. L., N. P.

STATEMENT.

393 BROADWAY, NEW YORK Nov. 2nd 1901.

M Herring Hall Marvin Safe Co.,

IN ACCOUNT WITH

THE KINSEY, RAINIER & THOMSON CO.

HALLS SAFES

TELEPHONE 307 FRANKLIN

FIRE-PROOF AND BURGLAR-PROOF SAFES, BANK VAULTS, ETC.

SAFES OPENED, REPAIRED, EXCHANGED, REMOVED. 13

OFFICE OF

B. G. Hagstette, Bluffs. Ex. #13 D. L. L. N. O.

DESIGNER AND CONSTRUCTOR OF FIRE AND BURGLAR PROOF

SAFES AND VAULTS,

Dealer in the Old Reliable HALL'S STANDARD SAFES.

Telephone [illegible] No. 213 Chartres Street.

New Orleans, La., 1[illegible]

Dear Sirs:—

With your kind permission: Let "Hagstette, the Safe-Man" talk "Safe" to you and make you feel "Safe in your worldly possession. Nothing like being on the "safe" side.

Taking a "Safe" view regarding Safes and Locks, the following questions should be well considered and studied.

Have you a Standard Safe? Is it in good working order? Is it a Safe that will protect your Valuables, Books and Papers against Fire and Burglars? If not I am ready to furnish you ANY SIZE OF SAFES that will meet all the above requirement. I represent the old original and reliable "HALL SAFES." —Record, 60 years.

An experience of over 29 years, enables me to assure you that I know everything that is safe about a Safe.

As to my Repair Shop. I devote my special attention to all repairing. None but the best and most competent mechanics are employed.

ALL SAFES EXAMINED FREE OF CHARGE.

You will save time and expense by having your Safes and Locks overhauled, oiled and polished, at least once a year, and you will obtain better service by giving this your particular attention.

For Opening, Repairing and Moving Safes, my prices are moderate. This class of work is also executed by competent workmen.

Special attention given to repairing all makes of Combination Locks. Calls attended to at the shortest notice.

Safes and Bank Vaults re-painted, ornamented and highly finished in any style desired by a competent artist, one who has had an experience of over 30 years on that special line. Estimates furnished gratis.

For References: Refer to the leading banks throughout the State.

By giving this Circular your kind perusal, and soliciting a share of your future patronage.

I remain your truly,

B. G. HAGSTETTE.

B. G. HAGSTETTE,

Standard Safes and Vaults,

213 CHARTRES STREET,

NEW ORLEANS, LA.

Endorsed: Pltff's. Ex. No 14. J. L. L., N. P.

If not delivered in Five days, return to

SAFES-Opened, Repaired, Exchanged and Removed.

B. G. HAGSTETTE,

Designer and Constructor of Fire and Burglar Proof . . .

SAFES & VAULTS

214 Chartres Street,

Phone 1586. NEW ORLEANS, LA.

HALL'S STANDARD SAFES.

The Herring-Hall-Marvin Safe Co
Hamilton Ohio

SAFES
OPENED,
REPAIRED,
EXCHANGED,
REMOVED.

HELLO 1586.

DEALER IN THE OLD RELIABLE HALL'S STANDARD SAFES.

Pltff's. Ex. # 15
J. L. L.
N. P.

B. G. HAGSTETTE,

DESIGNER AND CONSTRUCTOR OF FIRE AND BURGLAR-PROOF...

SAFES AND VAULTS

214 CHARTRES STREET. NEW ORLEANS, LA.

THE HALL'S SAFE COMPANY,

SPRING GROVE AVENUE,
CINCINNATI, OHIO, U. S. A.

Plaintiff's Exhibit 18.

1840. 1900.

HISTORY OF

HALL'S SAFES.

E. Hall & Co., ... Established, 1840

Jos. L. Hall & Co., . . " 1860

The Hall's Safe Co. " 1896
(INCORPORATED.)

Three Generations of High-Grade Safe Making
Prove that Quality Tells.

THE UNRIVALED RECORD

...OF THE...

HALL'S SAFE

...IN THE...

GREAT FIRES

...OF...

CHICAGO,	ILLS.
BOSTON,	MASS.
LYNN,	MASS.
SEATTLE,	WASH

AND THE LESSER FIRES ALL OVER THE UNITED STATES
AND IN OTHER COUNTRIES, PROVE CONCLUSIVELY THAT

THE HALL'S SAFES
ARE THE BEST.

47

CHEAPEST INSURANCE IN THE WORLD.

DID IT EVER OCCUR TO YOU THAT A

HALL'S SAFE

WAS THE CHEAPEST FORM OF INSURANCE?

Your books and papers are very valuable assets in case of fire—they give you an inventory. Your settlements with the Insurance Companies are based very largely on the records they preserve

Knowing these facts, it behooves you to buy the best safe you can find. A small saving in the purchase price of a safe may risk hundreds or possibly thousands of dollars through your failure to get a Fire-Proof Safe.

ALWAYS USE A HALL'S SAFE.

Our Record of almost sixty years (1840 to 1900) proves our position.

THE HALL'S SAFE COMPANY,

SPRING GROVE AVENUE,
CINCINNATI, OHIO, U. S. A.

P. O. Box 846.

1840 Sixty-two Years. 1902

ALL OTHER CATALOGUES WITHDRAWN.

FOR PRICES, ETC., ADDRESS

KINSEY, RAINIER & THOMSON,

393 BROADWAY,

TELEPHONES: 307 Franklin. 3133 " 3136 "

NEW YORK, U. S. A.

Exhibit 19.

288

1840. 1900.

HISTORY OF

HALL'S SAFES.

E. Hall & Co., ... Established, 1840

Jos. L. Hall & Co., . . . " 1860

The Hall's Safe Co. " 1896

(INCORPORATED.)

Three Generations of High-Grade Safe Making
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...OF THE...

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...IN THE...

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CHICAGO, ...	ILLS.
BOSTON, ...	MASS.
LYNN, ...	MASS.
SEATTLE, ...	WASH

AND THE LESSER FIRES ALL OVER THE UNITED STATES
AND IN OTHER COUNTRIES, PROVE CONCLUSIVELY THAT

THE HALL'S SAFES
ARE THE BEST

CHEAPEST INSURANCE IN THE WORLD.

DID IT EVER OCCUR TO YOU THAT A

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Your books and papers are very valuable assets in case of fire—they give you an inventory. Your settlements with the Insurance Companies are based very largely on the records they preserve

Knowing these facts, it behooves you to buy the best safe you can find. A small saving in the purchase price of a safe may risk hundreds or possibly thousands of dollars through your failure to get a Fire-Proof Safe.

ALWAYS USE A HALL'S SAFE.

Our Record of almost sixty years (1840 to 1900) proves our position.

359

Endorsed: Pltff's. Ex. No. 24. J. L. L., N. P.

New York Sun, November 27, 1901.

The modern sneak-thief, so much in evidence of late, rarely encumbers himself with anything but jewelry and silver-ware. They can be thoroughly protected by means of our steel house safes or jewelry cabinets. A most acceptable holiday gift. Sold for sixty years. Known everywhere.

Hall's Safes.

Your old safe exchanged for a modern "HALL." Second Hand Safes for sale.

Safe moving and repairing.

MAIN SALESROOMS,

393 Broadway,

Tel. Franklin Nos. 307, 3133 and 3136. NEW YORK CITY.

Endorsed: Pltff's. Ex. No. 25. J. L. L., N. P.

The Sun, Tuesday, January 28, 1902.

Hall's Safes

Sold for 60 Years.

FIRE PROOF and BURGLAR PROOF.

393 Broadway.

Near White St.

Telephone { 307 / 3133 / 3130 } Franklin.

292

Endorsed: Pltff's. Ex. No. 26. J. L. L., N. P.

The Sun, Monday, January 20, 1902.

Hall's Safes

Sold for 60 Years.
FIRE PROOF and BURGLAR PROOF.

393 Broadway.

Telephone { 307 / 3133 / 3136 } Franklin. Near White St.

Endorsed: Pltff's. Ex. No. 27. J. L. L., N. P.

The Sun, Thursday, February 13, 1902.

[redacted] numerous large fires occurring lately ought to convince you of the importance of having a safe that is absolutely reliable. Hall's Safes, sold for sixty (60) years, never fail to fully protect contents.

Hall's Safes.

Your old safe exchanged for a modern "HALL." Second Hand Safes for sale.

Safe moving and repairing.

MAIN SALESROOMS.

393 Broadway,

Tel. Franklin Nos. 307, 3133 and 3136. NEW YORK CITY.

Endorsed: Pltff's Ex. No. 42. J. L. L., N. P.

362 PLTFF'S EX. NO. 47, D. A. B.

Memorandum of agreement made this 12th day of September, 1898, between The Hall's Safe Company a corporation organized and existing under the laws of the States of Ohio, located at Cincinnati in said State, and Kinsey, Ranier & Thomson, a firm doing business in the State of New York, hereinafter respectively designated as the Safe Company and the Firm.

First. The firm agrees to purchase of the Safe Company, from time to time, as per orders, safes and other goods manufactured by the Safe Company at prices as per schedule marked "A," attached to this agreement and made part thereof.

Second. The goods purchased are to be paid for by the firm as follows: The firms are to render to the Safe Company account sales every two weeks, which account sales shall specify the sales made for cash and the sales on time, and the actual cash received at the date of the account and the firm shall remit to the Safe Company, such proportion of the net proceeds of cash sales as shall represent the prices at which the firm buys the goods sold from the Safe Company. As to goods sold on time, the firm shall remit and pay over when received, the same proportion, and in case of such sales made by the firm on time for which they receive commercial paper, the Safe Company may have the option to take its proportionate share, or any part thereof, of such sales in such papers, and in case of all sales made on time payments, the firm shall settle in full therefor with the Safe Company within four months from the time of the actual shipment by the firm of the goods. In the case of sales which the firm are obliged to cancel and receive or recover back the goods, the same are to be placed in consigned stock and charged to the firm at the difference between the purchase price and the amount paid by the firm to the Safe Company.

Third. The Safe Company hereby agrees from time to time to consign to the firm for sale, safes and other goods sufficient in amount to enable the firm to do business; the value of the goods so consigned at any one time not to exceed the sum of $10,000.00 unless the Safe Company should elect to make larger consignments. Sales of the goods so consigned are to be guaranteed by the said firm and they are to account to the Safe Company for the goods at their prices mentioned in said schedule. The cash sales of goods so con-
363 signed and the sales on time of such goods are to be accounted for and proceeds paid over to the Safes Company in the same manner as provided in the second paragraph of this agreement. Said firm shall keep separate accounts of the goods so consigned and of all sales thereof, and shall keep the goods so consigned insured at their own expense for the benefit of whom it may concern, as their interests may appear.

Fourth. The prices mentioned in Schedule "A" at which the goods are to be sold or consigned to the said firm are the prices of the goods delivered F. O. B. at Cincinnati; the said firm to pay the

freight from Cincinnati to New York and all other expenses after such delivery, unless in special cases of sales, some other agreement may be made relative to such expenses by and between the parties hereto.

Fifth. The firm agrees during the continuance of this contract, to sell only the Hall Safes and other goods manufactured by the said Safe Company, excepting the said firm shall be allowed to take in exchange for the Safe Company's goods sold, safes and goods of other makes and to sell the same; but it is understood and agreed that the said Safe Company is not to receive any part of its share from the sale of its goods in the second-hand goods so taken by the said firm. It is further agreed and understood that the said firm upon obtaining in writing the permission of the said Safe Company, may buy and sell and deal in second-hand safes of other than the said Safe Company's make.

Sixth. The Safe Company hereby covenants and agrees with the said firm to give to said firm exclusive sale of their goods in the City of New York; and the said Safe Company agrees to refer all applications and inquiries coming from territory of New York, State and territory east of Trenton in New Jersey, to said firm, it being the intention of the said parties hereto that the said firm shall have the exclusive right, as soon as they are able to thoroughly cover and handle that territory. It is further understood and agreed that said Safe Company hereby reserves the right to quote prices to and fill orders for experts and engineers on special bank work to be made to order, according to plans and specifications, allowing, however, in every such case a reasonable commission to be paid to the firm as the case arises.

Seventh. It is further understood and agreed between the parties hereto, that nothing in this contract contained shall interfere with
364 the right of the Safe Company to continue its dealings with the New York Export & Import Company, pursuant to its contract to sell them its goods for export.

Eighth. It is understood and agreed that the said firm by virtue of this agreement is not made the agents of the said Safe Company, and it has no power to bind it in any form or manner, and said firm agrees to use all reasonable and diligent effort to promote the sale of the said Safe Company's goods.

Ninth. Said firm agree to sell at least at the rate of six hundred safes per year, and in case at the end of the year the said firm has sold said number of safes, then the said Safe Company, at their option, may cancel this agreement.

Tenth. The stipulation contained in the third paragraph of this agreement, relative to the consignment of goods may be cancelled at the option of the said Safe Company at the end of two years from date, upon giving sixty days' notice to said firm of its intention to cancel the same.

Eleventh. This agreement shall not be assigned by the said firm, except it is understood and agreed between the parties, that in case the said firm is organized as a corporation, this agreement may be assigned to said corporation.

Twelfth. The firm agree to rent and maintain at their own expense, a store in a prominent location on Broadway, for the exposition and sale of the goods manufactured by the Safe Company.

In witness whereof, the parties hereto have hereunto set their hands and the said corporation has caused the same to be executed by its President and the seal thereof to be affixed this 12th day of September, 1898.

(Signed) THE HALL SAFE COMPANY,
E. C. HALL, *President.*
KINSEY, RAINIER & THOMSON.
J. T. RAINIER.
F. A. THOMSON.
J. R. KINSEY.

Sealed and delivered in presence of:
W. H. HALL.
S. F. KEMPER.

Witness:
M. A. MAXWELL.
JOHN McGEARY.

Endorsed: Plaintiff's Exhibit 48, D. A. B.

THE HALL'S SAFE CO.
CINCINNATI, O., U. S. A.
P. O. BOX 846.

ALL SAFES MADE BY HALL'S SAFE CO. HAVE THIS TRADE MARK

E. C. HALL, PRESIDENT,
MAKER OF SAFES SINCE 1868.
W. H. HALL, VICE-PRES'T AND TREAS.
MAKER OF SAFES SINCE 1874.
S. F. KEMPER, SECRETARY.

No. 3 "20TH CENTURY" SAFE.

COMBINATION LOCK
(Key-lock if desired.)

Outside,	45	inches high.	Inside,	30¼	inches high.
	36	" high, above wheels.		24	" wide.
	30	" wide.		16½	" deep, in clear.
	23	" deep.			
	26	" deep, including handle.			

Approximate Weight, 1,075 Pounds.

ARRANGEMENT OF CABINET WORK.

1 Sub-Treasury	8	in. high,	7	in. wide.
2 Drawers	3	"	7	"
4 Pigeon Holes	3	"	8¼	"
2 Pigeon Holes	5⅝	"	7	"
4 Pigeon Holes	4	"	3¼	"
2 Pigeon Holes	4	"	3⅜	"
2 Book Spaces	19¼	"	8¼	"

All key-locks have two keys.

Also Made with Inside Door.

Principal Office and Factory, Spring Grove Avenue, Cincinnati, O., U.S.A.

Plaintiff's Exhibit No. 50, D. A. B.

And afterwards, to-wit: on the 13th day of July, A. D. 1905, the following Defendant's Exhibits were filed in the Clerk's Office of the Court aforesaid, which said Defendant's Exhibits are clothed in the words and figures, following, to-wit:

Defendant's Exhibits.

Defts. Ex. No. 200, J. L. L., N. P.

Annual Meeting of the Stockholders of Herring-Hall-Marvin Company.

Jersey City, N. J., June 5th, 1895.

The following notice was sent to each stockholder of record:

Cincinnati, O., May 10, 1895.

The annual meeting of stockholders of the Herring-Hall-Marvin Company will be held at the office of the Company, No. 83 Montgomery Street, in Jersey City, N. J. on Wednesday the fifth day of June, 1895, at eleven o'clock A. M., for the election of two directors, and the transaction of such other business as may be brought before the meeting. The transfer books will close at the office of the Company, No. 71 Broadway, New York City, on May 25th, at three o'clock P. M., and re-open on June 6th at ten o'clock, A. M.

Respectfully,
Richard T. Pullen. Secretary.

366 *Report of Proceedings.*

The first thing in order was the election of a Chairman. The Secretary nominated Mr. Dymond. The motion was seconded and unanimously carried, and Mr. Dymond took the chair.

A stockholder made a motion that the Secretary of the Company be elected Secretary of the meeting. The motion was seconded and carried.

The next business in order was the reading of the minutes of the last stockholders' meeting. Upon note, the minutes as read were approved.

The next business was the election of Inspectors for the present and next annual meeting.

Mr. Goodwin nominated Mr. J. S. Cox, Mr. Blinn Yates and Mr. Thos. B. Daniels as Inspectors for the ensuing year. The nomination was seconded and carried.

The Secretary was then called upon to read the report of the business for the past year, and the balance sheet of the Company. A stockholder made a motion that the report and balance sheet as read be approved and filed, and that a copy of the statement, in keeping with the by-laws, be transmitted to each stockholder of record. The motion was seconded and carried.

The election of directors was next in order. The Secretary announced that Mr. John Farrel of New York, and Mr. W. S. Rowe, of Cincinnati were the retiring directors. Mr. Frank S. Pownall, of New York City, and Mr. W. S. Rowe of Cincinnati were nominated by Mr. Goodwin.

Mr. COCHRAN: "Mr. Chairman and gentlemen, I have been asked on behalf of the stockholders—I think a large majority of them so far as I am informed, to state to this meeting, some of the things we propose to do in the future. To carry out these results it will be necessary to make changes in the by-laws. The by-laws must be amended by a majority of the stock."

By-law No. 9, which provides for a single committee in charge of all the business of the Company is to be amended as follows: First: Strike out by-law 9, headed "Executive Committee" and insert the following:

"Nine: Managing Committee: As soon as practical after the annual election, the Board of Directors shall elect from their members, two committees, one to be called the Eastern Committee, and to have active control and supervision of the Company's property and business in the East carried on prior to the organization
367 of this Company by Herring and Farrel of New York and the Marvin Safe Company of New York, Farrel & Company of Philadelphia, and Smith and Meyers of Philadelphia;

"The other to be called the Western Committee, to have active control and supervision of the Company's property and business in the west carried on before the organization of this company by the Hall Safe and Lock Company of Cincinnati, Ohio.

"Each Committee to have power to appoint and discharge agents, salesmen, and all other subordinate officers and employés, to fix their compensation to establish and discontinue branch factories, stores and agencies for the sale of the Company's goods, and to con-

duct all the ordinary business operations of the Company, subject to the limitation hereinbefore set forth, and subject at all times to the control of the Board of Directors.

"Each Committee shall appoint a Chairman, who shall preside at meetings of such Committee and sign such applications for payment of money as may be necessary in the business conducted by the said Committee, when ordered by the Committee.

"Each Committee shall meet as often as the Chairman thereof may require, and shall keep a record of its proceedings and report to the Board of Directors at its regular quarterly meeting, and at any time when required by the Board.

"Each Committee shall appoint a Treasurer or Cashier who will conduct the financial operations for and under the direction of such Committee, and shall account to the Treasurer of the Company for all moneys coming into his hands."

That is to take the place of the old by-law which vested all control in one committee, which was virtually the President and any two Directors he might select.

Amended Article 10. This is simply in pursuance of the last amendment.

Amend Article 10, by striking out the words "And Executive Committee" in line three, and the words "or Executive Committee" in line five, as printed in the last published edition of the by-laws."

The Executive Committee will be supplemented and therefore it is taken out of all by-laws.

The next one is article 12.

Strike out the words "Or Executive Committee" wherever they occur, and strike out the last clause of this paragraph, "And an assistant Treasurer may be appointed" etc., as the Cashier of
368 these respective Committees will be Assistant Treasurers, of course it would be idle to have an Assistant Treasurer.

By-law 13. Strike out the words "And Executive Committee" and "Or Executive Committee" whenever they occur.

Mr. Cochran made a motion that the by-laws be amended to this effect. Mr. Matthew Suydam seconded the motion. A vote was taken and twenty-seven thousand one hundred and eighty-seven (27,187) shares were cast in favor of amending the by-laws as above. Mr. W. D. Pownall offered the following motion:

Resolved: That by-law one be amended by striking out the words "First Wednesday of June" and inserting instead, the words "Second Wednesday of July."

The motion was seconded, and upon vote was carried by twenty-seven thousand, one hundred and eighty-seven shares of stock.

Time 1:30 P. M. Recess of five minutes.

Inspectors. Thomas B. Daniels, Jennings S. Cox, and Blinn Yates were duly sworn to perform the duties as Inspectors, and affidavits were placed on file with Secretary.

4:45 P. M. The Inspectors announced they were ready to hand in the returns of the election. The following report was handed in:

"We, the undersigned Inspectors of election at the annual meeting of the Herring-Hall-Marvin Company, held at the office of said Company, No. 83, Montgomery Street, Jersey City, June 5th, 1895.

"Do hereby certify, that the annual election for two Directors and

three Inspectors of election of said company, was held at the above time and place, and that the polls were opened at 12:30 P. M. and were closed at 4:50 P. M.

We do further certify that the total number of votes cast at such election for the office of Directors, was twenty-seven thousand, one hundred and eighty-seven (27,187) and that the total number of votes cast for Inspectors of election was twenty-seven thousand, one hundred and eighty-seven; that of said votes so cast for Directors, Mr. W. S. Rowe received 27,187; Mr. F. S. Pownall, 27,159, and Mr. John Farrel 28.

That of the said number of votes so cast for Inspectors of election, Mr. Jennings S. Cox received 27,187; Mr. Thomas P. Daniels, 27,187, and Mr. Blinn Yates, 27,187.

We do hereby further certify that the following named two
369 persons, to wit: Mr. William S. Rowe and Frank S. Pownall receive- the greatest number of votes for Directors; and that the following three persons, Mr. Jennings S. Cox, Mr. Thomas P. Daniels, and Mr. Blinn Yates, received the greatest number of votes cast for Inspectors of Election; and we hereby declare them duly elected such Directors and Inspectors of Election of said Company.

Dated Jersey City, June 5th, 1895.

BLINN YATES,
JENNINGS S. COX.
THOMAS P. DANIELS.

No further business appearing, on motion of Mr. E. C. Hall, seconded by Mr. Taylor, and approved by all present the meeting adjourned.

Full details of the stockholders' meeting were taken by Court Stenographer, Mr. J. P. Dengler. The data and details were filed with the Secretary. RICHARD T. PULLEN, *Secretary.*

DEF'TS' EX. No. 201, J. L. L., N. P.

NEW YORK CITY, *June 6th,* 1895.

The annual meeting of the Board of Directors was held at the rooms of the Hardware Club, corner Broadway and Murray Street, New York, at one o'clock, the following being present: E. C. Hall, W. H. Hall, W. S. Rowe, F. O. Herring, W. B. Marvin, W. D. Pownall, R. T. Pullen, Richard Dymond, F. S. Pownall.

Mr. E. C. Hall made a motion that Mr. *Mr.* F. S. Pownall act as Chairman of the meeting. Mr. W. D. Pownall seconded the motion, which was carried.

The Secretary presented the resolution passed at the Stockholders' Meeting, June 5th, relative to the change in the by-laws.

The Secretary announced the result of the election of the Stockholders at their meeting held June 5th, the following Directors having been elected; Mr. W. S. Rowe and Mr. F. S. Pownall for a term of five (5) years; also the election of Messrs. Blinn Yates, Thomas P. Daniels, and Jennings S. Cox, as inspectors of the election of the stockholders for the present meeting, and also for the next annual meeting.

The next business in order was the election of the officers for the coming year. Mr. E. C. Hall made a motion that the Secre-

370 tary cast the ballot of all present in favor of Mr. Richard Dymond as President. Mr. W. D. Pownall seconded the motion, which was carried. The Secretary announced the result.

The next business in order was the election of three (3) Vice-Presidents; Mr. W. D. Pownall nominated Mr. Edward C. Hall, Mr. W. B. Marvin and Mr. Frank O. Herring for the said positions. Mr. W. H. Hall seconded the nomination.

Mr. W. D. Pownall made a motion that the Secretary be authorized to cast the vote of all present in favor of the said parties. The Secretary announced the result, and they were duly declared elected.

Mr. W. D. Pownall made a motion that Mr. Marvin cast the vote of all present in favor of Mr. R. T. Pullen as Secretary. Mr. F. O. Herring seconded the motion, which was carried. Mr. Marvin announced the result, and he was duly declared elected.

The election of Treasurer was then in order. Mr. W. H. Hall made a motion that the Secretary be authorized to cast the vote of all present in favor of Mr. John H. Davis as Treasurer. Mr. W. S. Rowe seconded the motion, which was carried. The Secretary announced the result, and he was duly declared elected.

Mr. Dymond having been elected as President, Mr. Pownall as Chairman retired, and the President then presided. The Secretary was called upon to read the minutes of the previous meeting. Mr. F. O. Herring moved that the minutes as read be approved. Mr. W. D. Pownall seconded the motion which was carried.

Mr. W. S. Rowe offered the following resolution:

Resolved. That pursuant to article nine of the by-laws, Messrs. W. B. Marvin and W. D. Pownall be, and they are hereby appointed the Managing Committee of the Eastern Department, and that Messrs. E. C. Hall and R. T. Pullen be, and they are hereby appointed the Managing Committee for the Western Department, with the powers and duties in said by-laws set forth. Mr. E. C. Hall seconded the motion which was carried.

Mr. W. S. Rowe offered the following resolution:

Resolve-: That in the conduct of the business of the respective departments, said Committee use, as far as practicable, the names of the predecessor companies occupying same territories, but that they be not limited as to territory in the conduct of the business. Mr. E. C. Hall seconded the motion, which was carried.

Mr. E. C. Hall made a motion that the Secretary be in-
371 structed to make arrangements with the company's Auditors for the separation of the accounts of the Eastern and Western Departments. Mr. W. D. Pownall seconded the motion which was duly carried.

Mr. E. C. Hall made a motion that the Secretary be instructed to pay the three electors at the stockholders' meeting, the sum of ten ($10.00) dollars each for services rendered. Mr. F. S. Pownall seconded the motion which was carried.

Mr. W. D. Pownall offered the following resolution:

Whereas: The reduced rate of wages for factory and other subordinate employés, established July 1st, 1894, has resulted in much discontent, and difference upon the part of said employés, in impairing the efficiency of the service. Therefore be it,

Resolved. That it is the sense of this Board that the respective Managing Committee- re-adjust the wages of employés wherever in their judgment the conditon of the Company's business makes it desirable so to do.

Mr. F. S. Pownall seconded the motion. Prior to the motion being put to vote Mr. W. S. Rowe moved that the said motion or resolution be laid upon the table. Mr. W. H. Hall seconded Mr. Rowe's amended motion, which was put to vote and resulted as follows: Messrs. E. C. Hall, W. S. Rowe, W. H. Hall, and R. T. Pullen voted in the negative; Messrs W. D. Pownall, F. S. Pownall, W. B. Marvin, and F. O. Herring voted in the affirmative. The vote resulted in a tie. Mr. Dymond, the presiding officer, was called upon to cast his vote, doing so in the negative, which resulted in Mr. Pownall's resolution being laid upon the table.

Mr. B. Marvin offered the following motion:

Resolved: That all negotiable instruments for the borrowing of money shall be signed by the Chairman of both Managing Committees, and that neither Committee shall borrow money, except upon paper so signed, provided that nothing herein contained shall prevent the sale or discounting of bills receivable by either Committee in the usual course of business. Mr. F. O. Herring seconded the motion, which was carried.

Mr. E. C. Hall offered the following resolution:

Resolved: That a bond in the sum of two thousand ($2,000) dollars be exacted from each Assistant Treasurer or Cashier, appointed by the respective managing Committees.

Mr. W. D. Pownall seconded the motion, which was carried.

Mr. W. S. Rowe offered the following resolution:

372 Resolved: That the Managing Committee of the Company be instructed to reduce expenses and rents in the various offices as far as possible, dispensing with any unnecessary employees, and using all means to reduce the fixed charges of the Company to a minimum, and report to the Directors each thirty (30) days the amount of expenses and also reductions made until the next quarterly meeting. Mr. E. C. Hall seconded the motion, which was carried.

Mr. E. C. Hall offered the following resolution:

Be it resolved; that the respective Committee proceed to make the various changes as soon as the proper division can be arrived at by the Auditors.

Mr. W. S. Rowe seconded the motion which was carried.

The following resolution was offered by Mr. W. B. Marvin:

Resolved: That a Committee consisting of the President, Mr. W. S. Rowe and Mr. F. S. Pownall be appointed to take into consideration the salaries to be paid to the members of the Managing Committees and other salaried officers whose duties are general, and report to the Board what in their judgment should be paid to each of said officers. No salary to be fixed at more than six thousand ($6,000) dollars per an-um.

Mr. F. O. Herring seconded the motion which was carried.

The Committee presented the following as the basis of their conclusions: That the salaries of the various parties shall be as follows for the coming year:

E. C. Hall, $6,000; W. B. Marvin, $6,000; W. H. Hall, $5,000; R. T. Pullen, $6,000; W. D. Pownall, $6,000; F. O. Herring, $5,000; and that a compensation be allowed W. B. Marvin at the rate of $4,500 for fractional part of last years wherein he rendered active service in the conduct of the New York branch business.

The above *above* amounts were accepted by the said parties as satisfactory, each agreeing to waive all claim for back or former reductions of salary.

Mr. W. S. Rowe offered the following resolution:

Resolved: That where checks, drafts or notes payable to the various factories of the Herring-Hall-Marvin Company are negotiated at the Company's banks endorsed by the factories, by their Managers, that the Company hereby guarantee payment of them and binds itself as fully as if its endorsement appeared thereon.

Mr. E. C. Hall seconded the motion, which was carried.

373 No further business appearing for attention, Mr. Marvin moved that the meeting adjourn, Mr. Herring seconded the motion, which was carried.

RICHARD T. PULLEN, *Secretary.*

DEFENDANTS' EXHIBIT No. 203, J. L. L., N. P.

Cincinnati Directory,

June, 1904.

Safe Manufs.

ALPINE SAFE & LOCK CO. (THE).

903 to 915 Freeman Av.; Telephone West 520.

BAUM, THE J. SAFE AND LOCK CO.,

J. Baum, Sole Proprietor; Manufacturers of Vaults, Household and Business, Fire and Burglar Proof Safes; 'Phone Main 1199; 613, 615, 617 and 619 E. Front.

Baum J. Safe & Lock Co., 617 E. Front.

Hall's Safe Co. (The), Office and Factory, Spring Grove Av. and Kinney; Telephone Park 137.

HALL'S SAFE & LOCK CO., THE

(See Herring-Hall-Marvin Safe Co.)

Halliday G. V. Safe Co. Room 333, 514 Main.

HERRING-HALL-MARVIN SAFE CO.

Successors to Hall Safe & Lock Co.; H. A. Tenney, President; Richard T. Pullen, Vice President; Manufacturers of Fire and Bu-glar Proof Safes, Bank Vaults, Safe Deposit Vaults, Boxes, &c.; Factory and Principal Office, Hamilton, O.

THE MOSLER SAFE CO.,

M. Mosler, President; Wm. Mosler, Vice President and Treasurer; Salesroom, 8 W. Third; Fire and Burglar Safes, Vaults, &c.; Mosler Patent Screw Door Bank Safe; Mosler-Corliss Patent Bank Safe; Telephone Main 1767.

Mosler Safe Co. (The), 8 W. 3rd.

Endorsed: Defts. Ex. 204. J. L. L., N. P.

SAFES.

HERRING-HALL-MARVIN SAFE CO.

SUCCESSOR TO

HERRING & CO., New York — HALL'S SAFE & LOCK CO., Cincinnati
MARVIN SAFE CO., New York — FARREL & CO., Philadelphia

THE LARGEST AND BEST EQUIPPED MANUFACTURERS OF

Bank Safes, Bank Vaults, Deposit Vaults

PLANS, SPECIFICATIONS, AND ESTIMATES FURNISHED

Fire-Proof Vaults and Doors, Office, House and Jewel Safes

400 BROADWAY, NEW YORK

PHILADELPHIA ST. LOUIS SAN FRANCISCO · HAMILTON, O.

Hall's Safe & Lock Co, 400 Bway

HALL'S
STANDARD
SAFES
We give you the benefit of our sixty years' experience in the manufacture of Fire and Burglar Proof
Safes—Bank Vaults—Safe Deposit Vaults, Locks, etc.
HALL'S SAFE & LOCK CO.
400 BROADWAY
TELEPHONE, 3093 FRANKLIN

HERRING'S
Patent Champion
SAFES
Safe Deposit & Bank Vaults.
Plans, Specifications and Estimates Furnished
TELEPHONE, 3093 FRANKLIN
HERRING & CO.
Office and Salesrooms
400 Broadway, New York

Herring & Co, 400 Bway (see card next column).
Herring-Hall-Marvin Safe Co, 400 Bway & 379 South (see card top of page).
Keck Robert, 520 W Bway
Keil Leonard, 233 Centre

LEONARD KEIL
FIRE AND BURGLAR PROOF SAFES .·. .·.
All sizes of New and Second Hand Safes. Wall Safes, Express and Strong Boxes. Safes Bought and Exchanged.
233 Centre Street
Safes opened and repaired at short notice. Painting, Moving and Hoisting.

Kerrigan James, 132 W 28th & 252 W 47th
Kinsey, Rainier & Thomson Co, 393 Bway

KINSEY, RAINIER & THOMSON CO.
NEW and SECOND HAND SAFES
All Styles and Makes
393 BROADWAY
Telephones, 4810-11 & 12 Franklin

Lowrie Safe & Lock Co, 949 Bway. Tel. 640 Gramercy.
Manganese Steel Safe Co, 253 Bway

ADDRESSING, FOLDING, MAILING
Done at THE TROW DIRECTORY OFFICE, 39 Third Ave

375

Defts. Exhibit No. 205, J. L. L., N. P.

New York Business Telephone Directory.

July 1st, 1904. 281.

Fr'klin....4810 Hall's Safe Co., 393 Bway.
Fr'klin....3093 Hall's Safe & Lock Co., 400 Bway.
Fr'klin....3093 Herring-Hall-Marvin Safe Co., 400 Bway.
Fr'klin....3093 Herring & Co., 400 Bway.
Fr'klin....4810 Kinsey, Rainier & Thomson Co. 393 Bway.

Defts. Exhibit No. 206, J. L. L., N. P.

New York Telephone Co. Directory, May 10, 1904.

New York City,
Manhattan and Bronx.

502.

Fr'klin....4810 *Hall's Safe Co., The 393 Bway.
Fr'klin....3093 *Hall's Safe & Lock Co., 400 Bway.

Endorsed: Defts. Ex. No. 207. J. L. L., N. P.

The American Banker, Saturday, Feb. 22, 1902.

Defts Ex
#208 J. L. L.
n. P.

The Only Office of
HALL'S SAFE AND
LOCK COMPANY
Of Cincinnati, Ohio,
IS LOCATED AT
304 E. LEXINGTON STREET.
MAKE NO MISTAKE.
TELEPHONES:
COURTLAND 970.
MT. VERNON 2306.

Defts. Ex. 211, J. L. L., N. P.

To The Stockholders of The
Herring-Hall-Marvin Safe Company.

Enclosed is a balance sheet as of December 31st, 1903. After charging all repairs and maintenance of buildings, machinery, tools, etc, we have charged off $34,119 for depreciation, it being the desire of the management to conduct the business in the most conservative manner.

It having become necessary to fund the floating debt of the company, on March 2, 1903, an issue of $250,000, six per cent. gold debenture notes were sold, and as it proved impossible to sell this issue at par, so far as remote dates were concerned without securing them by a mortgage, which seemed undesirable for the Company's credit, a discount amounting in the aggregate to $8,250 was allowed to the various purchasers on equal terms. This entire discount has been charged to the operating expense of 1903, and will not become a charge again. Two of these bonds have been paid duly. Except for this item the net profits would have been about equal to the full dividend on the first preferred stock outstanding.

Respectfully submitted,

H. A. Tenney, President.

New York, January 30, 1904.

377 DEF'TS' EX. No. 212, J. L. L., N. P.

Herring-Hall-Marvin Safe Co. Balance Sheet, 31st December, 1903.

Assets.

Real estate and buildings	$107,187.87	
Machinery and tools	184,605.31	
Furniture, fixtures and cartage plant	13,013.95	
Patterns, drawings, &c	26,232.51	
		$331,039.64
Stock of complete safes at branches at cost	142,351.15	
Manufactured goods and work in process	175,629.02	
Raw material at cost	72,023.52	
Second-hand safes	24,300.44	
		414,304.13
Bills receivable	2,219.42	
Accounts receivable	159,557.02	
Cash in banks and on hand	4,076.63	
Unexpired insurance premiums	4,591.52	
Investment in capital stock of other company	13,800.00	
		184,244.59
Total		$929,588.36
Treasury stock		616,872.00
Good-will account		2,181,642.42
		$3,728,102.78

Liabilities.

Capital Stock:		
6,000 shares First Preferred Stock	$600,000.00	
10,500 shares Second Preferred Stock	1,050,000.00	
16,500 shares Common Stock	1,650,000.00	
		$3,300,000.00
Gold debenture notes falling due over a period of years	230,000.00	
Bills payable	61,434.53	
Accounts payable	53,430.63	
Interest accrued	1,150.00	
Cash received from customers		
378 in advance	18,708.75	
Reserved to cover doubtful accounts, etc.	9,173.91	
		373,897.82
Undivided profits as on 31st December, 1902	28,968.43	
Balance of profit and loss account representing net profit on the business of the Company for the year 1903	25,236.53	
		54,204.96
		$3,728,102.78

Auditors' Certificate.

We have audited the books and accounts of the Herring-Hall-Marvin Safe Company, at all the Company's offices, for the year ending 31st December, 1903; we have examined the above balance sheet compared it with books, and we hereby certify that the same is correct. In our opinion the above statement represents the true position of the company at the close of business on 31st December, 1903.

WILKINSON, RECKITT, WILLIAMS & CO.,
Certified Public Accountants.

Endorsed: C. R. Larson.

DEF'TS' EX. NO. 213, J. L. L., N. P.

Know all men by these presents, that I, Richard T. Pullen of the City of Cincinnati and State of Ohio, for and in consideration of the sum of one dollar by Herring-Hall-Marvin Company, a corporation organized under the laws of the State of New Jersey, to me in hand paid, the receipt whereof is hereby acknowledged, and for other valuable consideration, have agreed and do hereby covenant, promise and agree to and with the said Herring-Hall-Marvin Company, that I, the said Richard T. Pullen, will hold the office of Secretary, or any other office of or in the said Herring-Hall-Marvin Company, to which I may be elected or appointed; until the fourth day of May, 1897, or longer if desired by said Company, and that while holding said office I will devote all my time and
379 give my best endeavors to promoting the interests and business of the said Herring-Hall-Marvin Company in such office and otherwise, and that I will accept in full payment and satisfaction of and for my services to be rendered as aforesaid a salary of six thousand dollars per annum to be payable monthly for the first year, and of such sum, not less than said six thousand dollars, as the Board of Directors may fix in each year thereafter, and in consideration as aforesaid, I, the said Richard T. Pullen, do hereby covenant, promise and agree that I will not, so long as the said Herring-Hall-Marvin Company may desire to retain my services as above, engage either in the State of Ohio, or in the State of New York or in the State of New Jersey, or in any of the States *each* of the Mississippi River in the business of manufacturing, selling, buying or dealing in fire and burglar proof vaults or safes, or in any business or occupation such as the said corporation known as Hall's Safe and Lock Company has heretofore been engaged in, or the said Herring-Hall-Marvin Company is authorized or empowered to engage in or in any other business which will or may complete or interfere in any manner with the business of the said Herring-Hall-Marvin Company.

In witness whereof, I have hereunto set my hand and seal the twelfth day of May, 1892.

(Signed) RICHARD T. PULLEN.

Sealed and delivered in presence of:

(Signed) —— ——.

DEF'TS' EXHIBIT No. 215, J. L. L., N. P.

Copy.

CINCINNATI, O., *June 18th*, 1892.

Hall's Safe & Lock Co.,
Factory & Principal Office,
Cincinnati.

Herring-Hall-Marvin Co., Kansas City, Mo.

DEAR SIRS: In reply to your favor of the 16th addressed to Hall's Safe & Lock Co. Please understand Hall's Safe & Lock Co., is not in existence. They have been succeeded by the Herring-Hall-Marvin Co., who have assumed their business in its entirety.

You will continue during the year to use the books of the Hall's Safe & Lock Co., and at the end of the year we will have them
380 come on to headquarters in the same manner as heretofore.

A new contract on the regular form of Herring-Hall-Marvin Co., must be drawn up and executed by each and every one of our employés, managers, salesmen and others, and sent in for ratification.

We want you to have a sign painted, not too large, to hang in your window, with the name Herring-Hall-Marvin Co., Successors, thereon. It will not be necessary to place the name of Hall's Safe & Lock Co. on this sign. What we want is to identify the business as with the Herring-Hall-Marvin Co.

You will at once have your bank accounts balanced and change the deposit to the name of Herring-Hall-Marvin Co. Sign checks in the name of Herring-Hall-Marvin Co., per Chas. H. Clarke.

Let all communications go out in the name of the new company, and where it relates to an old deal which was started and affected by the Hall's Safe & Lock Co., sign the letter Herring-Hall-Marvin Co., Successors.

Any other information you want on the subject, please write and we will give you same.

Yours truly,

HERRING-HALL-MARVIN CO.

(Signed) PULLEN.

DEF'TS' EXHIBIT No. 216, J. L. L., N. P.

Copy.

CINCINNATI, O., *June 18th*, 1892.

Hall's Safe & Lock Co.,
Factory & Principal Office,
Cincinnati.

Herring-Hall-Marvin Co., St. Louis.

GENTLEMEN: As advised the other day, Hall's Safe & Lock Co., is not in existence, having been succeeded by the Herring-Hall-Marvin Co., who have assumed their business in its entirety.

You will continue during the year to use the books of the Hall's Safe & Lock Co., and at the end of the year we will have them come on to headquarters in the same manner as heretofore.

A new contract on the regular form of Herring-Hall-Marvin Co., must be drawn up and executed by each and every one of
381 our employés, managers, salesmen and others, and sent in for ratification.

We want you to have a sign painted, not too large, to hang in your window, with the name Herring-Hall-Marvin Co., Successors, thereon. It will not be necessary to place the name of Hall's Safe & Lock Co. on this sign. What we want is to identify the business as with the Herring-Hall-Marvin Co.

You will at once have your bank accounts balanced and change the deposit to the name of Herring-Hall-Marvin Co. Sign checks in the name of Herring-Hall-Marvin Co., per Chas. W. Riegel.

Let all communications go out in the name of the new company, and where it relates to an old deal which was started and affected by the Hall's Safe & Lock Co., sign the letter Herring-Hall-Marvin Co., Successors.

Any other information you want on the subject, please write and we will give you same.

Yours truly,

HERRING-HALL-MARVIN CO.

(Signed) PULLEN.

DEF'TS' EX. No. 217, J. L. L., N. P.

Copy.

CINCINNATI, O., *June 18th*, 1892.

Hall's Safe & Lock Co.,
Factory & Principal Office,
Cincinnati.

Herring-Hall-Marvin Co., San Francisco, Cal.

DEAR SIRS: As advised the other day, Hall's Safe & Lock Co., is not in existence, having been succeeded by the Herring-Hall-Marvin Co., who have assumed their business in its entirety.

You will continue during the year to use the books of the Hall's Safe & Lock Co., and at the end of the year we will have them come on to headquarters in the same manner as heretofore.

A new contract on the regular form of Herring-Hall-Marvin Co., must be drawn up and executed by each and every one of our employés, managers, salesmen and others, and sent in for ratification.

We want you to have a sign painted, not too large, to hang in your window, with the name Herring-Hall-Marvin Co., Successors,
382 thereon. It will not be necessary to place the name of Hall's Safe & Lock Co. on this sign. What we want is to identify the business as with the Herring-Hall-Marvin Co.

You will at once have your bank accounts balanced and change the deposit to the name of Herring-Hall-Marvin Co. Sign checks in the name of the new company per J. G. Giesting.

Let all communications go out in the name of the new company, and where it relates to an old deal which was started and affected by the Hall's Safe & Lock Co., sign the letter Herring-Hall-Marvin Co., Successors.

Any other information you want on the subject, please write and we will advise you.

Yours truly,

HERRING-HALL-MARVIN CO.

(Signed) PULLEN.

DEF'TS' EX. 218, J. L. L., N. P.

Copy.

CINCINNATI, O., *June 17th*, 1892.

Messrs. Rand, McNally & Co., Chicago, Ill.

GENTLEMEN: We herewith return proof of the matter for your July issue of Bankers' Directory.

Hall's Safe & Lock Co., has been succeeded by the Herring-Hall-Marvin Co., a combination absorbing the property of Hall's Safe &

Lock Co.,—Herring & Co.—Marvin Safe Co., Farrel & Co. and Myers & Smith.

We desire to have the card stand with you just as it is, with the exception we want the name of Herring-Hall-Marvin Co., printed across the face of the reading matter very prominently, and it can be done, in red ink, as successors to Hall's Safe & Lock Co. You can simply print the name Herring-Hall-Marvin Co., Successors, and this will answer the purpose.

We would suggest you let the vault cut stand just as it is. Please have the new name large and prominent, and send us a proof thereof, and oblige,

Yours respectfully,

HERRING-HALL-MARVIN CO.

(Signed) PULLEN.

383 DEF'TS' EXHIBIT No. 219, J. L. L., N. P.

Copy.

CINCINNATI, O., *June 18th*, 1892.

Hall's Safe & Lock Co.,
Factory & Principal Office,
Cincinnati.

Herring-Hall-Marvin Co., Louisville, Ky.

GENTLEMEN: As advised the other day, Hall's Safe & Lock Co., is not in existence, having been succeeded by the Herring-Hall-Marvin Co., who have assumed their business in its entirety.

You will continue during the year to use the books of the Hall's Safe & Lock Co., and at the end of the year we will have them come on to headquarters in the same manner as heretofore.

A new contract on the regular form of Herring-Hall-Marvin Co., must be drawn up and executed by each and every one of our employés, managers, salesmen and others, and sent in for ratification.

We want you to have a sign painted, not too large, to hang in your window, with the name Herring-Hall-Marvin Co., Successors thereon. It will not be necessary to place the name of Hall's Safe & Lock Co. on this sign. What we want is to identify the business as with the Herring-Hall-Marvin Co.

You will at once have your bank accounts balanced and change the deposit to the name of Herring-Hall-Marvin Co. Sign checks in the name of the Herring-Hall-Marvin Co., per B. Holman.

Let all communications go out in the name of the new company, and where it relates to an old deal which was started and effected by the Hall's Safe & Lock Co., sign the letter Herring-Hall-Marvin Co., Successors.

Any other information you want on the subject matter, please write and we will advise you.

Yours truly,

HERRING-HALL-MARVIN CO.

(Signed) PULLEN.

DEF'TS' EXHIBIT No. 261, D. A. B., D. H. P., N. P.

I, Joseph L. Hall, of Cincinnati, Ohio, being of sound and disposing mind and memory, do make and publish this my last will and testament, hereby revoking all former wills, by me at any time made.

384 Item I. I give, devise and bequeath to my executors hereinafter named, all of my property, both real and personal and of every description in trust, for the following uses and purposes, viz:

(*a*). To manage and control the same, with full power to sell and convey, exchange and convert, invest and reinvest the same and the proceeds thereof or any part thereof as they may deem best for the interests of the estate, making such disposition of the income therefrom as my wife, Sarah J. Hall, may direct, and allowing my said wife to use such portion of the capital as may be necessary, if the annual income therefrom, together with her income from other sources should prove insufficient for her comfortable maintenance and support, it being my intention first of all to provide for my beloved wife during the remainder of her natural life.

(*b*). Immediately after the death of my said wife, to distribute all of my property then remaining between my children, now living, in such proportions as my said wife may by her last will and testament, appoint, or, in default of such appointment, in equal shares, giving to the children of any child of mine, who is now living but who may die before the period of distribution leaving issue surviving, the same share that would have gone to such child if he or she had continued to live until the period of distribution.

Item II. I hereby appoint the said Sarah J. Hall, Edward C. Hall and Richard T. Pullen executors of this my last will and testament, and direct that no bond be required of them.

In witness whereof, I have hereunto set my hand and seal, at Cincinnati, this 19th day of July, A. D., eighteen hundred and eighty-six.

JOSEPH L. HALL. [SEAL.]

Signed and sealed by said Joseph L. Hall and declared to be his last will and testament, in our presence, who, in his presence and in presence of each other, and at his request have hereunto subscribed our names as witnesses.

ALFRED PICKERING.
GEO. H. A. LYFORD.
W. C. COCHRAN.

Probate Court.

THE STATE OF OHIO, *Hamilton County, ss:*

I, Chas. F. Malsbary, Sole Judge and *Ex-Officio* Clerk of
385 the Probate Court within and for the County aforesaid, do hereby certify the foregoing to be a true and correct copy of the last will and testament of Joseph L. Hall, late of this County, deceased, admitted to probate and record, March 19th, A. D. 1889, as the same appear from the records and files of said court.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court at Cincinnati, this 2nd day of February, A. D., 1905.

CHAS. F. MALSBARY,
[SEAL.] *Probate Judge and Ex-Officio Clerk,*
By R. E. EDMONDSON,
Deputy Clerk.

DEF'TS' EXHIBIT No. 262, D. A. B., D. H. P., N. P.

Certified Copy of Certificate of Incorporation of Herring-Hall-Marvin Company.

This is to certify that we, the undersigned, Frank O. Herring of Plainfield, Union County, in the State of New Jersey, Edward C. Hall of the City of Cincinnati, County of Hamilton and State of Ohio, and Willis B. Marvin of the City, County and State of New York,

Do hereby associate ourselves into a company under and by virtue of the provisions of an Act of Legislature of the State of New Jersey, entitled "An Act Concerning Corporations," approved April 7, 1875, and the several supplements thereto and acts amendatory thereof, for the purposes hereinafter mentioned; and to that end we do by this our certificate set forth:

First. That the name which we have assumed to designate such Company and to be used in its business and dealings, is Herring-Hall-Marvin Company.

Second. That the place in this State where the business of such Company is to be conducted, is Jersey City, in the County of Hudson; and the objects for which said Company is formed are the manufacture, selling, buying and dealing in fire and burglar proof safes, vaults and locks, and structural iron and steel work of all kinds and descriptions, and the doing of all acts and things and transacting all business necessary or proper in connection with the said objects or incidental thereto or in any wise connected therewith.

A part of the business of said Company, is to be carried on out
of this state. The portion of the business of said Company
386 which is to be carried on out of this state is any of the general operations or business of the Company arising in or appertaining to the various localities, towns, cities, States and places in which the business of the Company is to be carried on, as the same

shall be from time to time determined by the Board of Directors of the Company.

The principal office or place of business of said Company out of this State is to be situated in the City of Cincinnati, in the County of Hamilton and State of Ohio. The Company shall also maintain an office in the City, County and State of New York. The Company also proposes to carry on its operations in the States of New York, Ohio, in all and every of the States and Territories of the United States of America the District of Columbia, the Republic of Mexico, the West India Islands, the Kingdom of Great Britain and Ireland, its colonies and dependencies, and the several countries of Europe, Central America and South America.

The name of the City and County in which the principal part of the business of said Company in this State is to be transacted, is Jersey City, in the County of Hudson, in the State of New Jersey.

Third. The total amount of the capital stock of said Company is three million three hundred thousand dollars ($3,300,000). The number of shares into which the same is to be divided is thirty-three thousand (33,000), and the par value of each share is one hundred dollars ($100).

The amount with which said Company will commence business is ten thousand dollars ($10,000) divided into one hundred (100) shares, of the par value of one hundred dollars ($100) each.

The capital stock of said Company shall consist of two kinds, viz., general stock and preferred stock. The preferred stock shall consist of eighteen thousand (18,000) shares of the par value of one hundred dollars each. The general stock shall consist of fifteen thousand (15,000) shares of the par value of one hundred dollars each.

The holder of such preferred stock shall be entitled to receive, and the said Company shall be bound to pay thereon from and after the first day of June, 1892, a cumulative preferential dividend at the rate of eight per centum per annum, payable out of the earnings of the Company quarter-yearly before any dividend shall be set apart or paid on the said general stock. In case of the non-payment of such dividend, it will remain until paid a charge against the net earnings of the Company prior to all rights of the general
387 stock. The preferred stock shall also be entitled to be first paid at its face value out of the property and assets of the Company upon dissolution. The preferred stock shall at no time exceed two-thirds of the actual capital paid in.

The general stock shall be entitled to the surplus earnings of the corporation when declared in dividends after the aforesaid dividends upon the preferred stock are paid, and shall also be entitled upon dissolution to whatever property and assets of the corporation remain after the payment of the preferred stock as aforesaid.

Fourth. The names and residences of the stockholders and the number of shares held by each, are as follows, to-wit:

Frank O. Herring, of Plainfield, in the County of Union and State of New Jersey, five (5) shares of preferred stock, five (5) shares of general stock.

Edward C. Hall, of the City of Cincinnati, County of Hamilton

and State of Ohio, ten (10) shares of preferred stock, ten (10) shares of general stock.

Willis B. Marvin of the City, County and State of New York, five (5) shares of preferred stock, and five (5) shares of general stock.

William H. Hall, of the City of Cincinnati, County of Hamilton and State of Ohio, ten (10) shares of preferred stock, ten (10) shares of general stock.

Richard T. Pullen, of the City of Cincinnati, County of Hamilton and State of Ohio, ten (10) shares of preferred stock, ten (10) shares of general stock.

Wright D. Pownall, of the City, County and State of New York, five (5) shares of preferred stock, five (5) shares of general stock.

John Farrel, of the City, County and State of New York, five (5) shares of preferred stock, five (5) shares of general stock.

Fifth. The period at which said Company shall commence is the fourth day of May, 1892, and the period at which it shall terminate is the first day of May, 1942.

Sixth. No bond of the Company, nor any mortgage upon any of its property, shall be created without the consent of the owners of ninety per cent. in value of the preferred stock given at a meeting duly called for that purpose, of which meeting at least thirty days' previous notice shall be given. This provision shall not at any time or in any manner be altered, amended or repealed, except by the affirmative vote of the owners of ninety per cent. in value of the preferred stock given at a meeting called for that purpose of the time and place of which meeting at least thirty days' previous notice shall be given to all the stockholders.

388 Seventh. The directors of the Company shall manage and conduct its business and affairs, shall be eleven in number. They shall be divided into five classes, to-wit;

One class to consist of two directors, who shall hold office for one year.

One class to consist of two directors, who shall hold office for two years.

One class to consist of two directors, who shall hold office for three years.

One class to consist of two directors, who shall hold office for four years.

One class to consist of three directors, who shall hold office for five years.

At the first election for directors, eleven directors shall be chosen by ballot and classified as aforesaid in respect to the time for which they shall severally hold office. At every annual election, beginning in the year 1893, directors shall be elected to fill the places of those whose terms then expire, and all directors chosen at or after the annual meeting in the year 1893, shall be elected for the term of five years. All vacancies in the board of directors caused by death, resignation or otherwise than by the expiration of the term of office, shall be filled by election by the Board of Directors, which election shall be for the full unexpired term for which such vacancy exists.

In witness whereof, we have hereunto set our hands and seals at

Jersey City, in Hudson County in the State of New Jersey, on the fourth day of May, in the year one thousand eight hundred and ninety-two.

FRANK O. HERRING. [L. S.]
EDWARD C. HALL. [L. S.]
WILLIS B. MARVIN. [L. S.]

Signed, sealed and delivered in the presence of:
J. D. BEDLE, JR.

STATE OF NEW JERSEY, *County of Hudson, ss:*

On this fourth day of May, one thousand eight hundred and ninety-two, before me, the subscriber, Joseph D. Bedle, Jr., a Master in Chancery of New Jersey, personally appeared Frank O. Herring, Edward C. Hall, and Willis B. Marvin, who I am satisfied are the persons named in the foregoing certificate, and I having first
389 made known to them and each of them the contents thereof, they severally acknowledge that they signed, sealed, executed and delivered the same as their voluntary act and deed.

J. D. BEDLE, JR.,
Master in Ch'y of N. J.

Endorsed: "Received in the Hudson Co., N. J. Clerk's Office May 4th, A. D., 1892 and recorded in Clerk's record No. 15 on page —. Dennis McLaughlin, Clerk." "Filed May 4, 1892, Henry C. Kelsey, Secretary of State."

STATE OF NEW JERSEY, *Department of State:*

I, S. D. Dickinson Secretary of State of the State of New Jersey do hereby certify that the foregoing is a true copy of the certificate of incorporation of Herring-Hall-Marvin Company, and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the fourth day of May, A. D., 1892, and now remaining on file and of record therein.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton, this sixth day of September, A. D., 1904.

[SEAL.] S. D. DICKINSON,
Secretary of State

DEF'TS' EXHIBIT No. 263, D. A. B., D. H. P., N. P.

Transcript of Record, in Common Pleas Court of Hamilton County, Ohio.

Pleas at a separate session of the Court of Common Pleas in and for the First Judicial District, began and held at the Court House in the City of Cincinnati, County of Hamilton and State of Ohio, in the term of January, A. D. 1896, before the Honorable J. R. Sayler, one of the judges of said court.

In the Court of Common Pleas.

STATE OF OHIO, *Hamilton County, ss:*

EDWARD C. HALL, WILLIAM H. HALL, CHARLES O. HALL, JOHN B. MARLING, and RICHARD T. PULLEN, Directors of Hall Safe
390 and Lock Company, Organized under the Laws of Ohio. *Ex Parte.*

Be it remembered that on the 3rd day of October, 1894, came the above named plaintiff by their attorney and filed in the office of the Clerk of said Court their certain petition of dissolution clothed in the words and figures, following, to-wit:

Petition for Dissolution No. 101,288.

Application for Dissolution of Corporation.

Now come the petitioners, Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling and Richard T. Pullen, and state that they are the duly elected and qualified directors of Hall's Safe and Lock Company a corporation organized under the laws of Ohio, having its office and principal place of business in Cincinnati, Hamilton County, Ohio, that on or about the 7th day of May, 1892, at a meeting of the stockholders of said Hall's Safe & Lock Company of which and the objects of which every stockholder had due notice and at which the owners of three thousand five hundred and seventy-five (3,575) shares, out of a total of three thousand five hundred and ninety-one (3,591) shares were present in person or by proxy it was unanimously resolved, that it was for the best interests of the stockholders to sell and transfer the entire property and business of said Company to Jennings S. Cox and Anson G. B. Segur, on terms proposed and thereupon to wind up and dissolve said corporation in accordance with the laws of Ohio, in such case made and provided and thereupon the President and Secretary of said Company were authorized to take all steps necessary to effect such sale and transfer; that in pursuance of the authority thus conferred upon them the said President and Secretary effected such sale and transfer of the

entire property and business of said Hall's Safe and Lock Company to Jennings S. Cox, and Anson G. P. Segur, on or about the 2nd day of June, 1892, and reported their action to the Board of Directors who duly approved the same and by resolution duly passed, authorized the President and Treasurer out of the proceeds of said sale to pay and discharge all debts and liabilities of said Company, to close up all unfinished business not transferred to the purchasers and to settle all pending claims and suits against the company, that all debts and liabilities and claims against said Company have been fully paid and discharged and all unfinished
391 business disposed of; that out of the proceeds of said sale remaining after paying and discharging said debts and liabilities the directors have from time to time declared dividends and made distribution among the stockholders until but three hundred and sixty-eight 53/100, ($368.53) remains in the treasury of said company and they now apply to this Honorable Court for a judgment for a dissolution of said corporation and for such other and further relief in the premises as may be granted in conformity with the statutes in such case made and provided and as may be required by law and equity.

And they further state:

1. That all of the estate both real and personal in law and equity of the said corporation now on hand and undistributed consists of cash amounting to three hundred and sixty-eight 53/100 dollars, ($368.53).

2. That a full, just and true account of the capital stock of the said corporation specifying the names of the stockholders their residence the number of shares belonging to each, the amount paid in upon such shares respectively and the amount still due thereon is hereto attached and marked Exhibit "A."

3. That there are no incumbrances on the property of the said corporation and no engagements entered into by it which have not been fully satisfied or cancelled and no creditors and no debts of any kind or description outstanding against such corporation.

By WILLIAM C. COCHRAN,
Their Attorney.

STATE OF OHIO, *Hamilton County, ss:*

Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling and Richard T. Pullen, being duly sworn say that they are the directors of Hall's Safe and Lock Company a corporation organized under the laws of Ohio and that the facts stated in the above application and the amounts, inventories and statements contained therein or annexed thereto are just and true so far as they know or have the means of knowing.

EDWWARD C. HALL.
WILLIAM H. HALL.
CHARLES O. HALL.
JOHN B. MARLING.
RICHARD T. PULLEN.

392 Sworn to and subscribed by the said Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling and Richard T. Pullen before me this 1st day of October, 1894.

[SEAL.] CHARLES BIRD,
Notary Public, Ham. County, Ohio.

EXHIBIT "A."

Name of owner.	Residence.	No. of shares.	Amount paid.	Amount due.
Estate of Joseph L. Hall..	Late of Cincinnati.	2972	297200	Nothing.
Estate of Sarah J. Hall..	Late of Cincinnati.	428	42800	"
M. A. Dalton.....	Cincinnati.....	45	4500	"
John B. Marling.....	Norwood	32	3200	"
Edward C. Hall.....	Glendale	22	2200	"
Estate of Carrie L. Hall..	Late of Indianapolis.	16	1600	"
Anna M. Pullen.....	Glendale	10	1000	"
William H. Hall.....	Avondale.....	10	1000	"
Kate L. Hart.....	Norwood	10	1000	"
Charles O. Hall	Cincinnati.....	10	1000	"
Walker P. Hall.....	Cincinnati.....	10	1000	"
Sarah Hall Clark.....	Springfield.	10	1000	"
Pearl Junkerman.....	Avondale.....	5	500	"
Chloe Hall Kemper.....	Avondale.....	5	500	"
Jessie L. Hall	Avondale.....	5	500	"
Richard T. Pullen.....	Glendale	1	100	"
Total.....	.....	3591	359100	Nothing.

And afterwards to-wit; on the 5th day of October, A. D., 1894, the following order of court was made and entered upon the journal thereof, clothed in the words and figures following, to-wit:

In the Court of Common Pleas.

STATE OF OHIO, *Hamilton County, ss:*

EDWARD C. HALL, WILLIAM H. HALL, CHARLES O. HALL, JOHN B. MARLING, and RICHARD T. PULLEN, Directors of Hall's Safe and Lock Company, a Corporation Organized under the Laws of Ohio. *Ex Parte.*

393 Minute 71.

This cause coming on to be heard on the petition, accounts, inventories and affidavit of Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling, and Richard T. Pullen, Directors of Hall's Safe and Lock Company for a dissolution of said Company it is

hereby ordered that all persons interested in said corporation show cause if any they have why it should not be dissolved, before Alberto C. Shattuck who is appointed referee herein, at his office No. 32 Johnston Building, Cincinnati, Ohio, on Thursday, January 10th, 1895, at 9 o'clock A. M. and that notice of this order shall be published once in each week for three weeks successively in some newspaper published and of general circulation in Hamilton County, Ohio.

And afterwards to-wit; on the 17th day of January, A. D., 1895, the following report was filed in the office of the Clerk of same Court clothed in the words and figures following, to-wit:

Report of Referee.

Court of Common Pleas, Hamilton County, Ohio.

EDWARD C. HALL ET AL. *Ex Parte.*

Report of Referee.

The undersigned respectfully reports that in pursuance of the order of this court and the published notice of the time and place at which all the persons interested in the Hall's Safe and Lock Company should appear and show cause why it should not be dissolved a hearing was had before him at his office No. 32 Johnston Building, Cincinnati, Ohio, on Thursday, January 10th, 1895, at 9 o'clock A. M. at which time no one appeared or offered to show cause why the said corporation should not be dissolved and Edward C. Hall and Richard T. Pullen two of the Directors of the Hall's Safe and Lock Company appeared with W. C. Cochran, attorney for the petitioners, and produced proof of publication of notice of the time of hearing said cause before the undersigned minutes of the Board of Directors and stockholders of the Hall's Safe and Lock
394 Company, the stock ledger of the said company, and the books of account and vouchers and each of the said parties having been sworn to tell the truth the whole truth and nothing but the truth, in the matter pending before the undersigned in the above entitled cause gave testimony in substance as follows:

Richard T. Pullen testified that he is Secretary of Hall's Safe & Lock Company and that the books produced by him were in his possession as such secretary and were the regularly kept stock ledger and the record of the minutes of the meetings of the Board of Directors and the stockholders of the said Hall's Safe and Lock Company and offered the record of the meeting of stockholders of which the petitioners were duly elected directors of said company, also the minutes of the stockholders' meeting authorizing by unanimous vote the officers of the corporation to sell and transfer the entire property and business of said company to Jennings S. Cox and Anson G. B. Segur and to wind up and dissolve said corporation in

accordance with the laws of Ohio, all of which records were regular and in due form and also testified that Exhibit A attached to the petition herein is a correct, full, just and true account of the capital stock of said corporation the names of the stockholders their residence, number of shares belonging to each and the amount paid upon said shares respectively and that nothing is due thereon from any of the said stockholders.

Edward C. Hall testified that he is president and treasurer of the Hall's Safe and Lock Company and that the entire property and business of the said Hall's Safe and Lock Company has been sold and transferred to the said Jennings S. Cox and Anson G. B. Segur on the terms and conditions provided for in the minutes of said stockholders meeting produced by and referred to in the testimony of Richard T. Pullen and producing the books of account of said company offered the same and testified that all of the engagements of the said corporation had been kept and met and that all the debts and liabilities of said corporation had been settled and that the proceeds of the sale of the property and effects of said corporation had been distributed to the stockholders in proportion to the amount of stock held by each and that there now remains in his hands as treasurer of said company the sum of $368.53 in cash the same being all of the property and effects of every description belonging to said corporation that has not been disposed of as above stated and that this suit was instituted in accordance with the resolution contained in the minutes of the stockholders' meeting offered in evi-
395 dence by Richard T. Pullen for the purpose of dissolving the said corporation and that there are no liens or incumbrances on said amount of any sort and that the same is all the property of the said corporation left to be disposed of and that the Exhibit A, attached to the petition herein is a correct, full, just and true account of the capital stock of said corporation the names of the stockholders, their residence number of shares belonging to each and the amount paid upon said shares respectively and that nothing is due thereon from any of the said stockholders.

Findings.

The undersigned therefore finds from the records of the meetings of the Board of Directors and stockholders of the Hall's Safe and Lock Company the stock ledger and books of account of the said Hall's Safe and Lock Company and from the other evidence produced that due notice of the time and place of the above hearing was given by publication in manner prescribed by the court; that the debts and liabilities of the said corporation have been settled and discharged in full; that the entire property and effects of said corporation have been sold with the unanimous consent of the stockholders of said corporation and the business of the company entirely abandoned; that the proceeds derived from said sale after paying the debts and liabilities have been distributed among the stockholders as set out in the petition herein in proportion to the amount of capital stock held by each; that there now remains in the hands

of Edward C. Hall, treasurer of said corporation the sum of three hundred and sixty-eight dollars and fifty-three cents ($368.53); that the same is all the property and effects of said corporation remaining and undisposed of; that exhibit A attached to the petition herein is a correct and true account of the capital stock of said corporation, the names of the stockholders, their residences, the number of shares belonging to each and the amount paid thereon by them respectively; that there is nothing due from any of the said stockholders; that no one has appeared against or objected in any manner to the dissolution of the said corporation; that a dissolution thereof will be beneficial to the stockholders and not injurious to the public interest and that there is no reson why the said corporation should not be dissolved in accordance with the prayer of the petition.

Respectfully submitted,

A. C. SHATTUCK, *Referee.*

June 16, 1894.

396 And afterwards to-wit; on the 6th day of July, A. D., 1895, the following proof of publication was filed in the office of the clerk of same court clothed in the words and figures following, to-wit:

Proof of Publication.

STATE OF OHIO, *Hamilton County, ss:*

Personally appeared before me a Notary Public in and for said County, F. B. Baldwin for the publishers of the Cincinnati Daily Tribune being duly sworn says that the annexed advertisement was published in the Cincinnati Daily Tribune a newspaper printed and of general circulation in said County once a week for three consecutive weeks, Oct., 6, 13, 20, commencing on the 6th day of October, 1894, and that each insertion was upon the same day of each week, namely, on Saturday.

F. B. BALDWIN.

Sworn to before me and signed in my presence this 20th day of Oct., 1894.

[SEAL.] CHAS. C. BENEDICT,
Not. Pub. Within and for Ham. Co., O.

Legal Notices.

Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling and Richard T. Pullen directors of Hall's Safe and Lock Company having applied to the Court of Common Pleas of Hamilton County, for a dissolution of said Company (said cause being numbered 101,288 on the appearance docket of said court) all persons interested in said corporation are hereby notified to show cause if any they have why it should not be dissolved before Alberto C.

Shattuck who is appointed referee herein at his office No. 32 Johnston Building, Cincinnati, Ohio, on Thursday, January 10, 1895, at 9 o'clock A. M.

By order of the Court of Common Pleas of Hamilton County, Ohio.

EDWARD C. HALL ET AL.,
Directors of Hall's Safe and Lock Co.
W. C. COCHRAN, *Attorney.*

397 And afterwards to-wit; on the 6th day of July, A. D., 1895, the following order of court was made and entered upon the journal thereof, clothed in the words and figures following, to-wit:

Minute 76.

Hamilton Common Pleas.

EDWARD C. HALL ET AL., Directors of Hall's Safe and Lock Company. *Ex Parte.*

Entry.

This day came the petitioners and filed proof of publication of the notice to show cause before Alberto C. Shattuck at his office No. 32 Johnston Building, Cincinnati, Ohio, on Thursday, January 10th, 1895, at 9 o'clock A. M. why said corporation should not be dissolved and the court having examined the same find that said notice was duly published in the Cincinnati Daily Tribune a newspaper printed and of general circulation in the County of Hamilton, State of Ohio, where said corporation has its principal office on the 6th, 13th, and 20th days of October, 1894, and that said publication is in all respects according to law and the order of this Court.

And this cause coming on to be heard upon the petition and the report of Alberto C. Shattuck as referee, the court finds that by unanimous consent of the stockholders, the objects of the corporation have been entirely abandoned and that a dissolution thereof will be beneficial to the stockholders and not injurious to the public interest and that no cause to the contrary has been shown it is therefore ordered and adjudged by the court that said corporation, Hall's Safe and Lock Company, be dissolved and Edward C. Hall is hereby appointed receiver of all the estate and effects of said dissolved corporation.

It is further ordered that penalty of the undertaking to be given by said receiver be fixed at $1000.

And now came the said Edward C. Hall and presented his said undertaking with Richard T. Pullen, as surety to the approval of the court and was duly sworn as such receiver.

And afterwards, to-wit; on the 6th day of July, A. D., 1895, the following bond was filed in the office of the clerk of same
398 court clothed in the words and figures, following, to-wit:

Bond of Ed. C. Hall.

Know all men by these presents; that Edward C. Hall and Richard T. Pullen are held and firmly bound unto the State of Ohio in the sum of one thousand 00/100 dollars to be paid to the said State of Ohio for the benefit of whom it may concern for which payment well and truly to be made, they bind themselves, their heirs, executors and administrators firmly by these presents. Sealed with seal, dated the third day of July, one thousand eight hundred and ninety-five. The condition of the above obligation is such, that whereas the said Edward C. Hall has been appointed receiver of all the estate and effects of the Hall's Safe and Lock Company in the suit brought by Edward C. Hall and others for the dissolution of said corporation numbered on the appearance docket of the Common Pleas Court of Hamilton County as No. 101,288.

Now, if the said Edward C. Hall shall faithfully discharge the duties of his appointment and duly account for all money received by him as such receiver then the above obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in presence of,

EDWARD C. HALL.
RICHARD T. PULLEN.

And afterwards, to-wit; on the 4th day of January, A. D., 1905, the following Proof of Publication was filed in the office of the Clerk of same Court clothed in the words and figures following, to-wit:

Proof of Publication.

STATE OF OHIO, *Hamilton County, ss:*

Personally appeared before me a Notary Public in and for said County, Waldo G. Perkins, bookkeeper for the publishers of the Cincinnati Daily Tribune who being duly sworn says that the annexed advertisement was published in the Cincinnati Daily Tribune, a newspaper printed and of general circulation in said County once a week for three consecutive weeks, December 20, 27, January 3, commencing on the 20th day of December, 1895, and that each
399 insertion was upon the same day of each week, namely on Friday.

WALDO G. PERKINS.

Sworn to before me and signed in my presence this 4th day of January, 1896.

[SEAL.]

CHAS. C. BENEDICT,
Not. Pub. Within and for Ham. Co., O.

Legal Notices.

Notice is hereby given that the undersigned will render his final account as receiver of Hall's Safe and Lock Company to the Court of Common Pleas of Hamilton County, Ohio, in Room 1, on Saturday the 4th day of January at 10 o'clock A. M.

EDWARD C. HALL,
Receiver of Hall's Safe and Lock Company.
W. C. COCHRAN,
Attorney for Receiver.

STATE OF OHIO, *Hamilton County, ss:*

Personally appeared before me a Notary Public in and for said County, Waldo G. Perkins for the publishers of the Cincinnati Daily Tribune who being duly sworn says that the annexed advertisement was published in the Cincinnati Daily Tribune, a newspaper printed and of general circulation in said County once a week for three consecutive weeks, July 10, 17, 24, commencing on the 10th day of July, 1895, and that each insertion was upon the same day of each week namely on Wednesday.

Sworn to before me and signed in my presence this 23rd day of October, 1895.

SMITH B. QUEAL,
Notary Public in and for Hamilton County, O.

Notice is hereby given that the undersigned has been duly appointed and qualified by the Court of Common Pleas of Hamilton County, O., as receiver of the estate and effects of Hall's Safe and Lock Company for the benefit of the creditors of said corporation and its stockholders in case No. 101,288 in which a decree has been entered dissolving said corporation all persons indebted to
400 said Hall's Safe and Lock Company or having any of its property and effects in their possession will make immediate payment or delivery and creditors will present their claims duly authenticated to the undersigned for allowance.

All persons claiming to hold any open or subsisting contract of Hall's Safe and Lock Company will present same to the undersigned in writing and in detail at his office No. 185 West Pearl Street, Cincinnati, O., on or before the 1st day of October, 1895.

EDWARD C. HALL,
Receiver of Hall's Safe and Lock Company.
W. C. COCHRAN,
Attorney for Receiver.

And afterwards, to-wit; on the 4th day of January, A. D., 1895, the following Final Account was filed in the office of the Clerk of said Court clothed in the words and figures following, to-wit:

Final Account.

STATE OF OHIO, *Hamilton County, ss:*

In the Court of Common Pleas.

EDWARD C. HALL, WILLIAM H. HALL, CHARLES O. HALL, JOHN B. MARLING, and RICHARD T. PULLEN, Directors of Hall's Safe and Lock Company, a Corporation Organized under the Laws of Ohio. *Ex Parte.*

Receiver's Account.

Now comes the receiver Edward C. Hall and reports to the court that he took possession of the three hundred and sixty-eight 53/100 dollars cash assets of said company on hand and undistributed and that he found no other property or assets belonging to said company; that he gave notice of his appointment as such receiver which was published for three weeks in the Cincinnati Tribune a paper of general circulation in the County wherein the principal place of the corporation is situate and files proof of such publication herewith, that no claims against said corporation and no open and subsisting contract of said corporation were presented to him or brought
401 to his knowledge and no demands of any sort were made upon him, that because there were no creditors or persons claiming to have subsisting contracts of said company no meeting of creditors was called or was necessary and that he still has on hand the $368.53 in cash, less the cost of publication of the notices required by law; that he has given notice as required by law of his intention to present his final account to the court and of the time and place of rendering said account by publishing the same in the Cincinnati Tribune a newspaper printed and of general circulation in the County wherein the principal place of business of said corporation is situated and files proofs of said publication herewith, and he now prays that his final account may be decreed to be final and conclusive upon all the creditors of the corporation if any such there be, and upon all persons if any, who have claims against it upon any open or subsisting engagement and upon all the stockholders of the corporation and the court will fix the amount of his compensation as well as counsel fees, for services rendered him and direct the distribution of the balance if any, remaining in his hands after the payment of costs and such compensation and counsel fees.

EDWARD C. HALL,
Receiver of Hall's Safe and Lock Co.

STATE OF OHIO, *Hamilton County, ss:*

Edward C. Hall, receiver of Hall's Safe and Lock Company being first duly sworn says that the foregoing is a full and accurate account of his proceedings as such receiver.

EDWARD C. HALL.

Subscribed in my presence and sworn to before me this 3rd day of January, 1896.

[SEAL.] A. C. SHATTUCK,
Notary Public, Hamilton County, Ohio.

And afterwards, to-wit; on the 11th day of January the following order of court was made and entered upon the journal thereof, clothed in the words and figures, following, to-wit:

402 Minute 87, Final Entry.

STATE OF OHIO, *Hamilton County, ss:*

In the Court of Common Pleas.

EDWARD C. HALL ET AL., Directors of Hall's Safe and Lock Company. *Ex Parte.*

Entry.

This cause came on to be heard upon the final account of the receiver heretofore appointed herein and the court having considered the same and being fully advised in the premises finds that said receiver gave due notice, as required by law, of his appointment as such receiver and duly notified all persons indebted to Hall's Safe and Lock Company or having any of its property in their possession to make immediate payment or delivery and all creditors to present their claims duly authenticated to him, and all persons claiming to hold any open or subsisting contract of Hall's Safe and Lock Co., to present the same to him at his office No. 185 West Pearl St., Cincinnati, Ohio, on or before the 1st day of October, 1895.

That he collected $368.53 balance of cash on hand belonging to said Company; that no other property or assets have come into his possession; that no claim against said Hall's Safe and Lock Company and no open and subsisting contracts of said Hall's Safe and Lock Co., were presented to him, and that more than four months have elapsed since his appointment; that due notice of his intention to present this final account specifying the time and place at which he would render the same, has been published and is in all respects regular and in conformity with law and that no one has appeared to contest the accuracy of said account.

It is therefore ordered and decreed that the final account of said receiver is full, true and correct and is final and conclusive upon all the creditors of the corporation upon all persons who have claims against it upon any open or subsisting engagement and upon all the stockholders of the corporation.

And the receiver is hereby ordered, out of the balance of cash in his hands to pay; First, the costs of this proceeding, including a fee of $25.00 to A. C. Shattuck the referee appointed herein.

Second. To his attorney W. C. Cochran for legal services rendered in this proceeding $150.00.

Third. And to retain the balance as his own compensation for services as receiver.

403 THE STATE OF OHIO, *Hamilton County, ss:*

Common Pleas Court.

I, Chas. Weidner, Jr., Clerk of the Court of Common Pleas within and for the County and State aforesaid, do hereby certify the within and foregoing to be a true and correct transcript of the record in the case No. 101,288, wherein Edward C. Hall, William H. Hall, Charles O. Hall, John B. Marling and Richard T. Pullen, Directors of Hall's Safe and Lock Company organized under the laws of Ohio, *Ex Parte,* as appears from the files and records now in my office.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court at Cincinnati, this fourth day of October, A. D., 1904.

[SEAL.] CHAS. WEIDNER, JR.,
Clerk of the Court of Common Pleas of Hamilton Co., O.,
By CHARLES B. LUEDERS, *Deputy.*

Endorsed on Cover: No. 101,288. Common Pleas Court, Edward C. Hall, *et al.,* Directors, etc., *Ex Parte.* Transcript of Record. Clerk's fees, $8.00, paid by W. C. Cochran. Chas. Weidner, Jr., Clerk.

DEF'TS' EXHIBIT No. 264, D. A. B., D. H. P., N. P.

Articles of Incorporation.

The Hall's Safe Co.

Amendment Increasing Capital Stock.

These articles of incorporation of the Hall's Safe Company,

Witnesseth, that we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation, for profit, under the general corporation laws of this State, do hereby certify:

First. The name of said corporation shall be The Hall's Safe Company.

Second. Said corporation is to be located at Cincinnati in Hamilton County, Ohio, and its principal business there transacted.

Third. Said corporation is formed for the purpose of manufacturing and dealing in fire and burglar — safes and vaults
404 boxes and other fittings, locks, jail work, and all kinds of structural iron work.

Fourth. The capital stock of said corporation shall be one hundred thousand dollars ($100,000.00) divided into one thousand (1000) shares of one hundred dollars ($100.00) each.

In witness whereof, we have hereunto set our hands, this 9th day of Sep., A. D., 1896.

EDWARD C. HALL.
WILLIAM H. HALL.
CHARLES O. HALL.
WALKER P. HALL.
A. ACTON HALL.
W. C. COCHRAN.
MALCOLM McAVOY.

THE STATE OF OHIO, *County of Hamilton, ss:*

Personally appeared before me, the undersigned, a Notary Public in and for said County, this 9th day of September, A. D., 1896, the above named Edward C. Hall, William H. Hall, Chas. O. Hall, Walker P. Hall and A. Acton Hall who each severally acknowledged the signing of the foregoing articles of incorporation to be his free act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal on the day and year last aforesaid.

[SEAL.] MALCOLM McAVOY,
Notary Public, Ham. Co., Ohio.

THE STATE OF OHIO, *County of Hamilton, ss:*

I, Geo. Hobson, Clerk of the Court of Common Pleas, within and for the county aforesaid, do hereby certify that Malcolm McAvoy whose name is subscribed to the foregoing acknowledgment as a Notary Public was at the date thereof a Notary Public, in and for said county, duly commissioned and qualified, and authorized as such to take such acknowledgment; and further that I am well acquainted with his handwriting, and believe that the signature to said acknowledgment is genuine.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this 9th day of September, A. D., 1896.

[SEAL.] GEO. HOBSON, *Clerk,*
By J. C. SCHWINN, *Deputy.*

405 *Certificate of Increase of Capital Stock.*

Edward C. Hall, President, and S. Fred. Kemper, Secretary of the Hall's Safe Company, duly authorized in the premises, and acting on behalf of said Company, do hereby certify, that on the 26th day of May, A. D., 1900, the capital stock of said Company was fully subscribed for, and on installment of ten per cent. on each share of stock had been paid: that on said day, by a vote of the holders of a majority of the stock of said Company, at a meeting called by a majority of its directors, and held at the office of the Company, in the City of Cincinnati, Hamilton County, Ohio, and at which meeting all the holders of the capital stock of said Company

were present in person or by proxy, and waived in writing the notice by publication and by letter of the time, place and object of such meeting required by law, and also agreed in writing to the increase of capital stock hereinafter set forth, it was on motion, "Resolved, that the capital stock of said, The Hall's Safe Company, be increased from $100,000.00 its present capital stock, to $150,000.00 divided into 1500 shares of $100.00 each; and further, that the President and Secretary of said Company be instructed to file a certificate of such increase with the Secretary of State"; which is done accordingly.

In witness whereof, the aforesaid, Edward C. Hall, President, and S. Fred Kemper, Secretary, of The Hall's Safe Company, acting for and on behalf of said Company, have hereunto set their hands this 12th day of June, A. D. 1900.

[SEAL.] THE HALL'S SAFE COMPANY,
By E. C. HALL, *President,*
S. FRED. KEMPER, *Secretary.*

(*Certificate under Section* 906, *Revised Statutes of the United States.*)

UNITED STATES OF AMERICA, *State of Ohio:*

OFFICE OF THE SECRETARY OF STATE.

I, Lewis C. Laylin, Secretary of State of the State of Ohio, and being the officer who, under the constitution and laws of said State, is duly constituted the keeper of the records of articles of incorporation of all companies incorporated under the laws thereof, and
406 the records of all papers relating to the creation of said incorporated companies, and empowered to authenticate exemplifications of the same, do hereby certify that the annexed instrument is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Articles of Incorporation of "The Hall's Safe Company," filed in this office on the 10th day of September, A. D., 1896, and recorded in Volume 70, Page 525; and of the Certificate of Increase of Capital Stock of said Company, filed in this office on the 13th day of June, A. D. 1900, and recorded in Volume 64, Page 187, of the Records of Incorporations; that said exemplification is in due form and made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.

In testimony whereof, I have hereunto attached my official signature and the great seal of the State of Ohio, at Columbus, this 7th day of September, A. D., 1904.

[SEAL.] LEWIS C. LAYLIN,
Secretary of State.

DEF'TS' EXHIBIT No. 265, D. A. B., D. H. P., N. P.

Certified Copy of Certificate of Incorporation of Herring-Hall-Marvin Safe Company.

(10 cts. Internal Revenue Stamp cancelled.)

Certificate of Incorporation of The Herring-Hall-Marvin Safe Company.

This is to certify, that we, the undersigned, do hereby associate ourselves into a corporation under and by virtue of the provisions of an Act of the Legislature of the State of New Jersey, entitled "An Act Concerning Corporations, Revision of 1896," for the purposes hereinafter mentioned, and to that end we do by this our certificate set forth:

First. That the name assumed to designate the corporation and to be used in its business and dealings is Herring-Hall-Marvin Safe Company.

Second. That the location of its principal office in this State is to be at No. 60 Grand Street in the City of Jersey City, County of Hudson; the name of the agent therein and in charge thereof, and
407 upon whom process against the corporation may be served is the Corporation Trust Company of New Jersey, and the business of the corporation is to be conducted in said City and in such other places in the State as the nature and progress of the business of the corporation shall from time to time render necessary or desirable.

The corporation shall also have power to conduct its business in all its branches and have one or more offices outside of the State of New Jersey, in any or all of the several States and Territories of the United States and in the District of Columbia, and in any or all foreign countries.

Third. That the objects for which this corporation is formed are to do any or all of the things herein set forth to the same extent as natural persons might or could do, and in any part of the world, as principals, agents, contractors, trustees or otherwise, and by or through trustees, agents, or otherwise, and either along or in conjunction with others, and in furtherance of, and not in limitation of, the general powers conferred by the laws of the State of New Jersey, it is hereby expressly provided that the corporation shall have also the following powers, viz:

(*a.*) To manufacture, purchase and sell all kinds of fire-proof, burglar-proof and other safes, to contract for, manufacture and erect all manner of vaults, boxes and compartments and other constructions for the safe keeping and protection of securities and valuables; to manufacture, sell and install all or any appliances necessary or useful in connection with such work; to contract for and construct all manner of iron and steel work which may conveniently be constructed in connection with vault and other work hereinbefore men-

tioned; to contract for and construct buildings or any part thereof; and to manufacture iron and steel in any or all their various forms as also articles made wholly or partly therefrom; including the acquisition by purchase, by manufacture or otherwise of all materials, supplies, machinery and other articles necessary or convenient for use in connection with and in carrying on the business herein, or any part thereof.

(*b.*) To manufacture, purchase or otherwise acquire, to hold, own, mortgage, pledge, sell, assign, and transfer, or otherwise dispose of, to invest, trade, deal in and deal with goods, wares and merchandise and property of every class and description.

(*c.*) To acquire, the good-will, rights and property of any
408 kind, and to undertake the whole or any part of the assets, and liabilities, of any person, firm, association or corporation, and to pay for the same in cash, stock or bonds of this corporation or otherwise.

(*d.*) To apply for, obtain, register, purchase, lease, or otherwise acquire, and to hold, own, use, operate, introduce and to sell, assign, or to otherwise dispose of, to grant licenses in respect of or otherwise turn to account any and all trade-marks, trade names and distinctive marks, and all inventions, improvements and processes used in connection with or secured under Letters Patent of the United States or elsewhere, or otherwise, and with a view to the working and development of the same to carry on any business whether manufacturing or otherwise which the corporation may think calculated directly or indirectly to effectuate these objects.

(*e.*) To purchase or otherwise acquire, to hold, sell, assign, transfer, mortgage, pledge, exchange or otherwise dispose of bonds, mortgages, debentures, obligations or shares of the capital stock of any corporation and to exercise in respect of all such property any and all the rights, powers and privileges of individual owners thereof.

(*f.*) To enter into, make, perform and carry out contracts of every kind with any person, firm, association or corporation.

(*g.*) To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants, bonds, debentures, and other negotiable or transferable instruments, but only as incidental to its general business.

(*h.*) To procure the corporation to be registered or recognized, to have one or more offices, to carry on all or any of its operations and business, and unlimitedly and without restriction to hold, purchase, mortgage, and convey real and personal property in any State or Territory of the United States, and in any foreign country or place.

To do all and everything necessary, suitable or proper for the accomplishment of any of the purposes or attainment of any of the objects hereinbefore enumerated or which shall at any time appear for the benefit of the corporation and in general to carry on any other business (whether manufacturing or otherwise) which may seem to the corporation capable of being conveniently carried on in connection with the above, or calculated directly or indirectly to enhance the value of or render profitable any of the corporation's property or rights.

The objects specified in the third paragraph shall, except
409 where otherwise expressed in said paragraph, be nowise limited, or restricted, by a reference to or inference from the terms of any other clause or other paragraph herein, but the objects specified in each of the clauses of this paragraph shall be regarded as independent objects.

Fourth. The stock of the said company is to be of three kinds, to-wit: common stock, first preferred stock and second preferred stock. The amount of the preferred stock shall at no time exceed two-thirds of the total outstanding capital stock of the company. The holders of the first preferred stock shall be entitled to receive semi-annually all the net earnings of the company determined and declared as dividends in each fiscal year, up to but not exceeding seven (7 per cent.) per cent. per annum upon all outstanding first preferred stock before any dividend shall have been set apart or paid on the second preferred or common stock, but such dividends upon the first preferred stock shall not be cumulative and the first preferred stock shall not be entitled to participate in any other additional earnings or profits. In case of liquidation or dissolution of the company, the holders of the first preferred stock shall be entitled to receive cash to the amount of their said first preferred stock at par before any payment in liquidation is made upon the said second preferred or common stock, and shall not thereafter participate in any of the property of the company or proceeds of the liquidation.

The holders of the second preferred stock shall be entitled to receive semi-annually all the net earnings of the company determined and declared as dividends in each fiscal year after the payment of the dividend to the first preferred stock, but not exceeding seven (7 per cent.) per cent. per annum upon all outstanding second preferred stock before any dividends shall be set apart or paid on the common stock, but such dividends upon the second preferred stock shall not be cumulative and the second preferred stock shall not be entitled to participate in any other additional earnings or profits. In case of liquidation or dissolution of the company and after the holders of the first preferred stock shall have received payment in full as aforesaid, then the holders of the second preferred stock shall be entitled to receive cash to the amount of their second preferred stock at par before any payment in liquidation is made on said common stock, and shall not thereafter participate in any of the property of the company or proceeds of liquidation.

The total amount of the capital stock of this corporation is to be three million, three hundred thousand ($3,300,000) dol-
410 lars, and the number of shares into which it is to be divided is thirty-three thousand (33,000) shares of one hundred ($100) dollars each, of which six thousand (6,000) shares of the aggregate par value of six hundred thousand ($600,000) dollars shall be first preferred stock, ten thousand five hundred (10,500) shares of the aggregate par value of one million and fifty thousand ($1,050,000) dollars shall be second preferred stock, and sixteen

thousand, five hundred (16,500) shares of the aggregate par value of one million, six hundred and fifty thousand ($1,650,000) dollars shall be common stock, of which twelve hundred ($1,200) dollars is the amount of capital with which said corporation will commence business.

Fifth. The names and residences of the incorporators and the number of shares subscribed for by each, said shares being shares of common stock, are as follows:

Names.	Residence.	Number of Shares.
Henry A. Tenney	Patchogue, N. Y.	4
Gordon Macdonald	Scarsdale, N. Y.	4
Frank O. Herring	Plainfield, N. J.	4

Sixth. That the existence of said corporation shall begin on the day of the filing of this certificate in the office of the Secretary of State of New Jersey, and it shall continue perpetually.

Seventh. The following provisions for the regulation of the business and the conduct of the affairs of the corporation and the following limitations and regulations of the powers of the corporation, the directors and the stockholders, are hereby created.

1. The Board of Directors shall have power without the assent or vote of the stockholders to make, alter, amend, and rescind the by-laws of this corporation, to fix the amount to be reserved as working capital, to authorize and cause to be executed mortgages and liens upon the real and personal property of this corporation for the purpose of securing the payment of its bonds or otherwise. Pursuant to the vote of the holders of a majority of the stock issued and outstanding, the stockholders having been formally convened in a meeting, the directors shall have power and authority to sell, assign, and transfer the whole property of this corporation.

2. The corporation may use and apply its surplus earn-
411 ings, or accumulated profits authorized by law to be reserved, to the purchase or acquisition of property and to the purchase or acquisition of its own capital stock from time to time, to such extent and in such manner and upon such terms as its board of directors shall determine, and neither the property nor the capital stock so purchased and acquired, nor any of its capital stock taken in payment or satisfaction of any debt due to the corporation shall be regarded as profits for the purpose of declaration or payment of dividends, unless otherwise determined by a majority of the board of directors, or a majority of the stockholders.

3. The corporation shall have power to cause or allow the legal title, estate and interest in any property acquired or carried on by the company to remain or be vested, or registered in the name of, or carried on by any other company or companies, foreign or domestic, formed or to be formed, and either upon trust for, or as agents of nominees of this company, or upon any other terms or conditions which the board of directors may consider for the benefit of this company, and to manage the affairs, or take over and carry on the business of such company or companies so formed or to be formed,

either by acquiring the shares, stocks, or other securities thereof, or otherwise howsoever, and to exercise all or any of the powers of holders of shares, stocks, or securities thereof, and to receive and distribute as profits the dividends and interest, on such shares, stocks, or securities.

4. The corporation may in its by-laws confer powers additional to the foregoing upon the directors and may prescribe the number necessary to constitute a quorum of its board of directors, which number may be less than a majority of the whole number.

5. The board of directors may, by resolution passed by a majority of the whole board, designate three or more of their number to constitute an executive committee, which committee shall for the time being, to the extent provided in said resolution or in the by-laws of said corporation, have and exercise all the powers of the board of directors in the management of the business and affairs of the corporation and have power to authorize the seal of the corporation to be affixed to all papers which may require it.

6. The directors shall from time to time determine whether and to what extent, and at what times and places and under what conditions and regulations the accounts and books of the cor-
412 poration, or any of them shall be open to the inspection of the stockholders and no stockholder shall have any right of inspecting any account or book or document of the corporation, except as conferred by statute or authorized by the directors or by a resolution of the stockholders.

7. The directors may hold their meetings and have an office and keep the books of the corporation (except the stock and transfer books) outside of this State.

In witness whereof, we have hereunto set our hands and seals this 2d day of August, 1900.

HENRY A. TENNEY. [L. S.]
GORDON MACDONALD. [L. S.]
FRANK O. HERRING. [L. S.]

In presence of:
HENRY THOMPSON.

Goodwin, Thompson & Vanderpoel, Solicitor-, 2 Wall Street, New York.

STATE OF NEW YORK, *County of New York, ss:*

Be it remembered that on this second day of August, A. D., 1900, before the undersigned personally appeared Henry A. Tenney, Gordon Macdonald and Frank O. Herring, who I am satisfied are all the persons named in and who executed the foregoing certificate, and I having first made known to them, and each of them, the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

[SEAL.] MILLARD W. BALDWIN,
A Commissioner of Deeds for the State of New Jersey in New York.

Registered in the office of the company at Jersey City, in the County of Hudson, this 2nd day of August, 1900.

THE CORPORATION TRUST COMPANY
OF NEW JERSEY, *Registered Agent,*
By K. K. McLAREN, *Assistant Secretary.*

Endorsed: "Received in the Hudson Co., N. J. Clerk's Office, Aug. 2, A. D., 1900 and recorded in Clerk's Record No. — on Page —, Maurice J. Stack, Clerk." "Filed Aug. 3, 1900. George Wurts, Secretary of State."

413 STATE OF NEW JERSEY, *Department of State:*

I, S. D. Dickinson, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of the Certificate of Incorporation of Herring-Hall-Marvin Safe Company, and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the third day of August, A. D., 1900, and now remaining on file and of record therein.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton, this sixth day of September, A. D., 1904.

[SEAL.] S. D. DICKINSON,
Secretary of State.

DEF'TS' EX. 266, D. A. B., D. H. P., N. P.

Certified Copy of Report of Officers, Directors, &c., of Herring-Hall-Marvin Safe Company.

The Herring-Hall-Marvin Safe Company.

Annual Report.

The corporation above named, organized and registered under the laws of the State of New Jersey, does hereby make the following report in compliance with the provisions of an act of the Legislature of New Jersey entitled "An Act concerning corporations (Revision of 1896)" and the various acts amendatory thereof and supplemental thereto:

First.

The name of the corporation is Herring-Hall-Marvin Safe Company.

Second.

The location of the registered office is No. 60 Grand Street, Jersey City, New Jersey, and The Corporation Trust Company of New Jersey is the agent upon whom process against the corporation may be served.

Third.

The character of the business is manufacture and sale of safes, and as otherwise specified in the certificate of incorporation.

414 Fourth.

The amount of the authorized capital stock is $3,300,000. The amount actually issued and outstanding is $1,200.

Fifth.

The names of all the directors and officers and the time when the term of office of each expires are as follows:

Name- of directors.	Expiration of term.
J. Sterling St. John	Sept. 16, 1901.
Robert C. McKinney	"
Philip Hathaway	"
Otto C. Bannard	"
Richard T. Pullen	"
J. Edward Hudley	"
Frank O. Herring	"
Gordon MacDonald	"
Henry A. Tenney	"

Officers.	Expiration of term.
President, Henry A. Tenney	Sept. 16, 1901.
Vice-President	
Treasurer, and	
Secretary, Frank O. Herring	"

Sixth.

The next annual meeting of the stockholders for the election of directors is appointed to be held on 3rd Monday, September, 1901.

Seventh.

The name of the corporation has been at all times displayed at the entrance of its registered office in this State and the corporation has kept at its registered office in this State a transfer book, in which the transfers of stock are made, and a stock book containing the names and addresses of the stockholders and the number of shares held by them respectively, open at all times to the examination of the stockholders, as required by law.

The Post-office address of each of the foregoing directors and officers is No. 60 Grand Street, Jersey City, New Jersey.

The agent in New Jersey for the transfer of stock, is The Corporation Trust Company of New Jersey, Jersey City, N. J.

In witness whereof, this report is signed in behalf of the
415 corporation by the President and Secretary of the said corporation, this 6th day of December, 1900.

HENRY A. TENNEY, *President.*
FRANK O. HERRING, *Secretary.*

Endorsed: "Filed Dec. 8, 1900, George Wurts, Secretary of State."

STATE OF NEW JERSEY, *Department of State:*

I, S. D. Dickinson, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of report of officers, directors, etc., of Herring-Hall-Marvin Safe Company, as the same is taken from and compared with the original filed December 8, 1900, and now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton this tenth day of September, A. D., 1904.

[SEAL.] S. D. DICKINSON,
Secretary of State.

DEF'TS' EX. 267, D. A. B., D. H. P., N. P.

Certified Copy of Report of Officers, Directors, &c., of Herring-Hall-Marvin Safe Company.

Annual Report.

The Herring-Hall-Marvin Safe Company.

The corporation above named, organized and registered under the laws of the State of New Jersey, does hereby make the following report in compliance with the provisions of an act of the Legislature of New Jersey entitled "An Act concerning corporations (Revision of 1896)" and the various acts amendatory thereof and supplemental thereto:

First.

The name of the corporation is Herring-Hall-Marvin Safe Company.

Second.

The location of the registered office is No. 15 Exchange
416 Place, Jersey City, New Jersey, and The Corporation Trust Company of New Jersey is the agent upon whom process against the corporation may be served.

Third.

The character of the business is manufacture and sale of safes, vaults and as otherwise specified in the certificate of incorporation.

Fourth.

The amount of the authorized capital stock is $3,300,000. The amount actually issued and outstanding is $2,683,000.

Fifth.

The names of all the directors and officers and the time when the term of office of each expires are as follows:

Names of directors.	Expiration of term.
Geo. R. Gray, New Jersey Director	February 9, 1905.
H. A. Tenney	"
R. T. Pullen	"
Otto T. Bannard	"
Thos. W. Stiles	"
J. Edward Studley	"
L. D. York	"
C. W. Carpenter	"
Adam Gray	"

Officers.	Expiration of term.
President, Henry A. Tenney	February 9, 1905.
Vice-President, R. J. Pullen	"
Treasurer, Thos. W. Stiles	"
Secretary, "	"

Sixth.

The next annual meeting of the stockholders for the election of directors is appointed to be held on the ninth day of February, 1905.

Seventh.

The name of the corporation has been at all times displayed at the entrance of its registered office in this State and the corporation has kept at its registered office in this State a transfer book, in which the transfers of stock are made, and a stock book containing the
417 names and addresses of the stockholders and the number of shares held by them respectively, open at all times to the examination of the stockholders, as required by law.

The Post-office address of each of the foregoing directors and officers is No. 15 Exchange Place, Jersey City, New Jersey.

The agent in New Jersey for the transfer of stock, is The Corporation Trust Company of New Jersey, Jersey City, N. J.

In witness whereof, this report is signed in behalf of the corporation by Thos. W. Stiles, Secy. of the said corporation, this 25th day of February, 1904.

HENRY A. TENNEY, *President.*
THOS. W. STILES, *Secretary.*

Endorsed: "Filed Feb. 27, 1904. S. D. Dickinson, Secretary of State."

STATE OF NEW JERSEY, *Department of State:*

I, S. D. Dickinson, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of the report of directors, officers, etc., of Herring-Hall-Marvin Co., as the same is taken from and compared with the original filed February 27, 1904, and now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton, this tenth day of September, A. D., 1904.

[SEAL.] S. D. DICKINSON,
Secretary of State.

DEF'TS' EXHIBIT No. 268, D. A. B., D. H. P., N. P.

Copy.

Meeting of the Board of Directors of Hall's Safe & Lock Company, held pursuant to notice served personally on each director, Tuesday, May 3rd, 1892, at the office of the said company, May 7th, 1892. Present, Messrs. Wm. H. Hall, John B. Marling and R. T. Pullen.

Mr. Wm. H. Hall laid before the board the resignation of Mr. Edward C. Hall as President and Treasurer and a Director of the company, in the words and figures following:

418 "CINCINNATI, O., *May 4th,* 1892.

W. H. Hall, V. Pres't Hall's Safe & Lock Co.

DEAR SIR: I have this day been elected a Director and President of the Herring-Hall-Marvin Company, a corporation organized under the laws of New Jersey, which expects to purchase from the parties with whom your Company has been negotiating for the sale of its property and business, all such property and business, together with that of several other firms and companies. Desiring to leave your Company, free to take such action as it may deem best in view of this fact without interference on my part, I hereby respectfully tender my resignation as President, Treasurer and a Director of your Company and request that the same may be accepted as of May 4th, 1892.

(Signed) EDWARD C. HALL."

On motion of Mr. R. T. Pullen, the resignation was accepted, and Mr. Walker P. Hall was elected as a director to fill the vacancy occasioned by Mr. E. C. Hall's resignation.

Mr. Walker P. Hall was duly sworn in to serve as a director in place of Mr. E. C. Hall, resigned.

Mr. R. T. Pullen retired from the meeting and Mr. Wm. H. Hall, Vice President, laid before the board the resignation of Richard T. Pullen as director and secretary of the company, which is in the words and figures following:

"CINCINNATI, O., *May 4th,* 1892.

W. H. Hall, V. Prest. Hall's Safe & Lock Co.

DEAR SIR: I have this day been elected a Director and Secretary of the Herring-Hall-Marvin Company, a corporation organized under the laws of New Jersey, which expects to purchase from the

parties with whom your Company has been negotiating for the sale of its property and business, all such property and business, together with that of several other firms and companies. Desiring to leave your Company, free to take such action as it may deem best in view of this fact without interference on my part, I hereby respectfully tender my resignation as Secretary and a Director of your Company and request that same may be accepted as of May 4th, 1892.

(Signed) RICHARD T. PULLEN."

On motion of Mr. John B. Marling, the resignation of
419 R. T. Pullen as Secretary and Director was accepted and Mr. W. C. Cochran was elected as a Director to fill the vacancy occasioned by R. T. Pullen's resignation. Mr. W. C. Cochran was duly sworn in to serve as a Director of the Company, in place of R. T. Pullen, resigned.

On motion of Mr. John B. Marling, Mr. Wm. H. Hall was elected President and Treasurer, and Mr. W. C. Cochran, Secretary, to fill the vacancies occasioned by the resignations of Messrs. E. C. Hall and R. T. Pullen.

On motion of Mr. John B. Marling it was resolved that Messrs. E. C. Hall and R. T. Pullen be requested to exercise a general supervision over the business of the company, which does not relate to the sale and transfer of its business as an entirety, and to render such assistance as lies in their power to the President and Secretary in the discharge of their respective duties, and that in consideration for such services they are to receive the same compensation as heretofore received while acting as said officers and that Messrs. Wm. H. Hall and W. C. Cochran shall continue to receive the same salaries they have heretofore drawn without increase on account of the change in their duties.

Mr. W. C. Cochran reported that in pursuance of the written consent of the owners and holders of three thousand five hundred and seventy-five shares out of three thousand five hundred and ninety-one shares of the paid up capital stock of the company, Mr. E. C. Hall had entered into negotiations with Messrs. Connor & Co., John H. Davis & Co., and Griswold & Gillett of New York City, for the sale and transfer of the entire property of the company to said firms or promoters and their assigns which negotiations resulted in the giving of an option to said promoters, dated April 11th, 1892, signed by Edward C. Hall as President of the company, which option is in the words and figures following:

"NEW YORK, *April 11th*, 1892.

Messrs. Connor & Co., John H. Davis & Co., Griswold & Gillett.

GENTLEMEN: For value received, Hall's Safe & Lock Company of Cincinnati, Ohio, hereby agrees that you or your associates or assigns, may on or before August 15th, 1892, purchase all its manufacturing plant, machinery, fixtures leasehold interests, stock of safes, material, cartage plant, bills receivable, book accounts, office furniture, patent rights, property and good-will for the sum of

$1,350,000.00 payable $700,000.00 in cash and $650,000.00
420 in the full paid common stock of the Herring-Hall-Marvin Company, provided that before any transfer can be demanded, said company shall be organized under the laws of New Jersey with a capital stock of $3,300,000.00 and shall simultaneously secure the business, property and good-will of Herring & Co., Farrel & Co., Myers & Smith and the Marvin Safe Company, free from all debts and liabilities (it being understood that the bills receivable and book accounts of Herring & Co., and Farrel & Co. are excepted from the property to be transferred by them); and provided further that said company shall have been organized with E. C. Hall as President, John Farrel, Willis B. Marvin and Wright D. Pownall as Vice-Presidents, Richard T. Pullen as Secretary and William H. Hall as Treasurer and with a board of eleven directors, classified and elected for the terms following, to-wit:

Edward C. Hall, Richard T. Pullen, William H. Hall, five years.

William A. Proctor, Richard Dymond, four years.

John Farrel, and another to be named by Hall's Safe & Lock Co. and satisfactory to you, three years.

Willis B. Marvin, Frank O. Herring, two years.

Wright D. Pownall and another, living in New Jersey to be named by you and satisfactory to the Hall Company, one year.

The property you are entitled to purchase as aforesaid shall embrace all that which is stated and set forth in an inventory thereof heretofore made and delivered to you; it being understood that for all the chattels, therein mentioned, which have been or may be sold or disposed of in the course of business, other property of like value shall be substituted and that all net earnings since June 30th, 1891, shall be turned over to the Herring-Hall-Marvin Company, Hall's Safe & Lock Company to be entitled to withdraw at the rate of seven per cent. per annum on the price agreed $1,350,000.00 from June 30th, 1891, to the date of the transfer. The salaries paid E. C. Hall, R. T. Pullen, W. H. Hall and W. C. Cochran at the rate of $10,000.00 per annum are to be treated (as other salaries are) as an expense of conducting the business. Apparent over-drafts on the accounts of E. C. Hall, R. T. Pullen and W. H. Hall shall not be treated as assets of the new company, nor shall the persons named be required to pay such balances to the new company, provided such over-drafts do not exceed $9,000.00 in the aggregate; but any excess over and above that amount shall be collected.

421 Hall's Safe & Lock Company will guarantee the collectibility of all accounts transferred by it, provided the Marvin Safe Company does the same.

It is understood that the business of the Hall's Safe & Lock Company upon making the sale above referred to, is to be taken over by said Herring-Hall-Marvin Company as a going concern and that no deduction from the above mentioned $1,350,000.00 shall be made for expenses, commissions, or any other cause, but the whole of said sum is to be paid over to Hall's Safe & Lock Company as above set forth. Upon the completion of the transfer in accordance with the terms above named, Hall's Safe & Lock Company agree to go into

liquidation and dissolve as soon as it can be wound up under the laws of Ohio.

It is understood and agree that in case the option hereinbefore granted shall be exercised and you sell to the public $300,000.00 (par value) of the common stock of said Herring-Hall-Marvin Company on or before January 1st, 1893, then and in that event and immediately upon receiving payment for said $300,000.00 of common stock, you are to purchase from Hall's Safe & Lock Company $100,000.00 of the common stock which that company is to receive, and pay for the same at par. All former options are hereby cancelled and withdrawn."

This option was satisfactory to the promoters named.

Upon the 30th day of April, these promoters reported they were prepared to exercise the option conferred upon them and requested the presence of Mr. E. C. Hall in New York for the purpose of arranging the terms and conditions of the transfer and in pursuance of such request, Messrs. E. C. Hall and W. C. Cochran visited New York and conferred with them.

The promoters request the company to enter into an agreement with Messrs. Jennings S. Cox and Anson G. B. Segur as their representatives, for the execution to them of a bill of sale and other instruments for the conveyance of the property, assets and good-will of Hall's Safe & Lock Company, which instruments are to be deposited with the Union Trust Company upon the conditions of the agreement referred to; which agreement provides, in substance, that the proper officers of Hall's Safe & Lock Company shall execute a bill of sale of all the property, assets, good-will, etc. etc., of the Hall's Safe & Lock Company, an assignment of all patent rights held by it and transfers of all leaseholds and real estate interests to
422 Messrs. Jennings S. Cox and Anson G. B. Segur, to be deposited with the Union Trust Company of New York City, to be held by said company in escrow and to be delivered to said Messrs. Jennings S. Cox and Anson G. B. Segur only upon the deposit with said Union Trust Company for the account and to the order of Hall's Safe & Lock Company of the cash and stock stipulated as the purchase price therefor, in the option; said cash and stock to be deposited with said Union Trust Company within thirty-five (35) days after the closing of the subscriptions upon the public offering of and for the preferred and common stock in the Herring-Hall-Marvin Company; which preferred stock and certain of such common stock are now about to be offered for public subscriptions, by and under the direction of Messrs. Conner & Co. and John H. Davis & Co.

The agreement further provides that if said cash and stock are not deposited with the Union Trust Company for the account of the Hall's Safe & Lock Company within the said time, that the said Union Trust Company shall re-deliver the bill of sale and other instruments of transfer to the Hall's Safe & Lock Company upon demand.

The promoters have given to Hall's Safe & Lock Company an

agreement dated May 6th, 1892, in which they stipulate that if such papers are properly executed and delivered to the Union Trust Company, they will within forty-eight hours thereafter offer for public subscription the preferred stock of the Herring-Hall-Marvin Company, and so much of the common stock as is intended to be offered to the public, by advertising in the usual manner; and in case said stock is not offered within the time aforesaid, or in the event that said subscription proves a failure, they will forfeit and pay to the company upon demand the sum of ten thousand ($10,000.00) dollars. The deposit of bill of sale, agreement, assignment etc., etc., with the Union Trust Company was desired by the promoters with a view to facilitating the transfer of the various properties to be acquired by the Herring-Hall-Marvin Company and payment to the respective vendors of said properties. Mr. Cochran reported that on the fourth day of May, 1892, the Herring-Hall-Marvin Company was duly incorporated under the laws of the State of New Jersey, with a capital of three million, three hundred thousand ($3,300,000) dollars, ten thousand ($10,000) dollars of which amount was subscribed and paid in cash on the day of the incorporation; that the persons named as subscribers of this amount in the articles of incorporation met by agreement (except R. T. Pullen and W. H. Hall who waived notice and gave their proxies to E. C. Hall)
423 upon such day, in Jersey City, N. J., and organized by the election of eleven directors, who were classified and elected for the following terms, to-wit:

Wright D. Pownall, John H. Davis, for one year.

Frank O. Herring, Willis B. Marvin, for two years.

John Farrel, Wm. S. Rowe, for three years.

Richard Dymond, Joseph Rawson, Jr., for four years.

Edward C. Hall, Richard T. Pullen, Wm. H. Hall, for five years.

The substitution of the name of Joseph Rawson, Jr. for William A. Proctor was made on the suggestion of E. C. Hall.

Upon the meeting of the board of directors, which followed immediately on the adjournment of the stockholders' meeting, Edward C. Hall was elected President, Richard T. Pullen, Secretary and Wm. H. Hall, Treasurer. John Farrel, Willis B. Marvin and Wright D. Pownall, as Vice-Presidents

The company has thus complied in all respects with the conditions of the option given to the promoters April 11th, 1892.

A copy of the charter and by-laws of the Herring-Hall-Marvin Co. was produced and read to the board by Mr. Cochran.

On motion of Mr. John B. Marling, seconded by Mr. Walker P. Hall, the report was accepted and adopted and ordered to be spread upon the minutes and the President and Secretary were ordered to execute an agreement with Messrs. Cox and Segur and the Union Trust Company, a bill of sale, and assignment of patents, transfers of leaseholds and real estate interests and any and all other instruments necessary to perfect the transfer of the company's property and business in accordance with the terms of the option and subsequent agreements negotiated by Mr. E. C. Hall, subject however to the approval of the stockholders of the company.

And the President and Secretary were further authorized to take the necessary steps to wind up and dissolve said corporation in accordance with the terms of said option and agreement, and with the laws of Ohio, as soon as said transfer should be fully and finally perfected and the purchase price be received by the company.

On motion of Mr. John B. Marling, the meeting of the directors thereupon adjourned.

(Signed) W. H. HALL, *President.*
(Signed) W. C. COCHRAN, *Secretary.*

424 DEF'TS' EXHIBIT No. 269, D. A. B., D. H. P., N. P.

Copy.

A meeting of the stockholders of Hall's Safe & Lock Company held at the office of said company, May 7th, 1892, pursuant to notice served personally and by mail on each stockholder on May 3rd.

Mr. R. T. Pullen reported that he had personally served notice on each stockholder, resident in the City of Cincinnati and had mailed notice to each stockholder not residing in Cincinnati, in the following form:

"Office of Hall's Safe & Lock Company.

CINCINNATI, O., *May 3rd,* 1892.

To —— ——:

You are hereby notified that a called meeting of the stockholders of Hall's Safe & Lock Co., will be held on Saturday morning, May 7th, at 10 o'clock to take action on a proposed sale and transfer of all the company's property and business, on terms to be named at the said meeting, and for such other business incidental thereto as may be required.

(Signed) R. T. PULLEN, *Sec'y.*"

All of the stockholders of the company, as shown by the stock book of said company were present at the meeting in person, or were represented by proxies duly appointed, except Mrs. Carrie L. Hall of Indianapolis, Ind., who acknowledged services in writing under date of May 5th, 1892, stating that it would be impossible for her to attend said meeting, and requesting that a copy of the proceedings had on that date be mailed to her, also a statement of what she was to receive for her shares of stock if the proposed sale of a new company goes through.

The meeting was called to order by Mr. Wm. H. Hall, President of the Company and on motion of Mr. John B. Marling seconded by Walker P. Hall, Edward C. Hall was chosen as chairman and W. C. Cochran as secretary of the meeting. The minutes of the meeting of the Board of Directors held Saturday, May 7th, 1892, and the various documents laid before the Board were read to the

stockholders by the Secretary, W. C. Cochran, and further explanations were made by E. C. Hall and W. C. Cochran.

On motion of M. A. Dalton, seconded by R. T. Pullen the action taken by the Board of Directors was unanimously approved.

On motion of W. H. Hall, adjourned.

(Signed) W. H. HALL, *President.*
(Signed) W. C. COCHRAN, *Secretary.*

425 DEF'TS' EXHIBIT No. 270, D. A. B., D. H. P., N. P.,

Agreement.

Hall's Safe and Lock Company With Jennings S. Cox and Anson G. P. Segur.

Agreement made the twelfth day of May, 1892, by and between Hall's Safe and Lock Company, a corporation organized under the laws of the State of Ohio, party of the first part, and Jennings S. Cox, of the City, County and State of New York, and Anson G. P. Segur, of the City of Brooklyn, County of Kings and State of New York, parties of the second part:

Whereas heretofore by an instrument in writing which is now in full force and effect, the party hereto of the first part did grant unto Messrs. Conner & Co., John H. Davis & Co. and Griswold & Gillett, Bankers, doing business in the City of New York, and unto their assigns, the right and privilege to purchase all the assets, property and good-will of the party of the first part for the sum of one million three hundred and fifty thousand dollars, ($1,350,000), payable seven hundred thousand dollars ($700,000) in cash, and six hundred and fifty thousand dollars ($650,000) by the delivery to the party of the first part of six thousand five hundred shares of the full paid common capital stock of the par value of one hundred dollars each share, of Herring-Hall-Marvin Company, a corporation which has been organized under the laws of the State of New Jersey; and

Whereas at the request of said Messrs. Connor & Co., John H. Davis & Co. and Griswold & Gillett, and to facilitate the exercise of the right and privilege granted to them as aforesaid, the party of the first part has executed a due and sufficient bill of sale and other instruments, conveying all its assets, property and good-will whatsoever, of every name and nature unto the parties hereto of the second part, which bill of sale and other instruments are to be delivered to the Union Trust Company of New York, in escrow, to be delivered to the parties hereto of the second part, as is hereinafter provided; a list of which instruments is subscribed at the foot of this agreement:

Now therefore this agreement witnesseth:

That upon payment by or on behalf of the parties hereto of the second part, their executors, administrators or assigns, to the said

Union Trust Company of New York or its successors to the
426 credit of the party hereto of the first part, of the just and full sum of seven hundred thousand dollars, lawful money of the United States, and upon the delivery to said Union Trust Company to the order and for the use and benefit of the party hereto of the first part, of six thousand five hundred shares of the par value of one hundred dollars each, of the common capital stock of said Herring-Hall-Marvin Company, then and immediately thereupon said Union Trust Company shall surrender and deliver to the parties hereto of the second part, their executors, administrators or assigns, the said bill of sale and other instruments of conveyance, to and for their use and benefit, absolutely and unconditionally, provided, however, that the said sum of seven hundred thousand dollars is paid to said Union Trust Company and said six thousand five hundred shares of common stock of said Herring-Hall-Marvin Company, are delivered to said Union Trust Company for the use and benefit of the party hereto of the first part, within thirty-five days after the closing of the subscription lists upon the public offering of and for preferred and common stock of the Herring-Hall-Marvin Company, certain of which preferred and common stock is now about to be offered for public subscription by or under the direction of Messrs. Connor & Co., and John H. Davis & Co., it being hereby expressly understood and agreed that the closing of the subscription lists of and for said preferred and common stock is to take place not later than the twenty-fifth day of May, 1892.

In case the said sum of seven hundred thousand dollars shall not be paid to the Union Trust Company as aforesaid within the time above limited, or the said six thousand five hundred shares of the common capital stock of the Herring-Hall-Marvin Company shall not be delivered to said company to the order of the party hereto of the first part within the above mentioned time, then and in that event and upon the expiration of said time, the above mentioned bill of sale and other instruments of conveyance made by the party of the first part shall be surrendered and re-delivered to said party of the first part by the Union Trust Company upon demand.

In witness whereof, the party of the first part has caused this agreement to be subscribed in its corporate name by its proper officer thereunto duly authorized, and its corporate seal, attested by its Secretary, to be hereunto affixed, and the parties of the second part have hereunto set their hands and seals the day and year first above written.

427 Written in triplicate to serve as one.

HALL'S SAFE & LOCK CO. [SEAL.]
W. H. HALL, *Pres't.*
W. C. COCHRAN, *Secretary.*
JENNINGS S. COX. [SEAL.]
ANSON G. P. SEGUR. [SEAL.]

Sealed and delivered in presence of;
LOUIS O. VAN DOREN.
F. H. PATTERSON.

List of Instruments Deposited by Hall's Safe and Lock Company.

Hall's Safe and Lock Company to Jennings S. Cox and Anson G. P. Segur, assignment of leases at Cincinnati.
Same to same, assignment of lease at Cleveland.
Same to same, assignment of leases, San Francisco, New York and Kansas City stores.
Same to same, assignment of eighteen letters patent.
Trustees of Joseph L. Hall, to same, assignment of fourteen letters patent.
Hall's Safe and Lock Company to Cox and Segur, bill of sale.
Agreement of Edward C. Hall with Herring-Hall-Marvin Company for services.
Agreement of Richard T. Pullen with Herring-Hall-Marvin Company for services.
Agreement of William H. Hall with Herring-Hall-Marvin Company for services.

JENNINGS S. COX.
ANSON G. P. SEGUR.

HALL'S SAFE & LOCK CO.
W. H. HALL, *Pres't.*
W. C. COCHRAN, *Secretary.*

DEF'TS' EXHIBIT No. 271, D. A. B., D. H. P., N. P.

Receipt of Union Trust Co.

Edward King, Cornelius D. Wood, James H. Oglivie, Vice Presidents.
Aug. W. Kelley, Secretary. J. V. B. Thayer, Ass't Sec'y.

Union Trust Company of New York, 80 Broadway.
428 All communications should be addressed to Union Trust Co. of New York.
P. O. Box 1015.

NEW YORK, *May 13th*, 1892.

Received from Hall's Safe and Lock Company, agreement executed by them with Messrs. Jennings S. Cox, and Anson G. P. Segur, dated May 12th, 1892, together with sundry instruments as stated in list accompanying said agreement, which are as follows:
Hall's Safe and Lock Company to Jennings S. Cox, and Anson G. P. Segur, assignment of leases at Cincinnati.
Same to same, assignment of leases at Cleveland.
Same to same, assignment of leases, San Francisco, New York, and Kansas City stores.
Same to same, assignment of eighteen letters patent.
Trustees of Joseph L. Hall, to same assignment of fourteen letters patent.
Hall's Safe and Lock Company to Cox and Segur, bill of sale.
Agreement of Edward C. Hall with Herring-Hall-Marvin Company for services.

Agreement of Richard T. Pullen with Herring-Hall-Marvin Company for services.

Agreement of William H. Hall with Herring-Hall-Marvin Company for services.

Which instruments are to be held by this company and delivered in accordance with the terms of a memorandum on file with this company.

UNION TRUST COMPANY
OF NEW YORK,
By EDWARD KING, *President.*

DEF'TS' EXHIBIT No. 272, D. A. B., D. H. P., N. P.

Contract of W. H. Hall & Release.

Know all men by these presents, that I, William H. Hall of the City of Cincinnati and the State of Ohio, for and in consideration of the sum of one dollar by Herring-Hall-Marvin Company, a corporation organized under the laws of the State of New Jersey, to be in hand paid, the receipt whereof is hereby acknowledged, and for other valuable considerations, have agreed and do hereby
429 covenant, promise and agree to and with the said Herring-Hall-Marvin Company, that I, the said William H. Hall, will hold office of treasurer, or any other office of or in the said Herring-Hall-Marvin Company, to which I may be elected or appointed; until the fourth day of May, 1897, or longer if desired by the said company, and that while holding said office I will devote all my time and give my best endeavors to promoting the interests and business of the said Herring-Hall-Marvin Company in such office and otherwise, and that I will accept in full payment and satisfaction of and for my services to be rendered as aforesaid a salary of five thousand dollars per annum to be payable monthly for the first year, and of such sum, not less than five thousand dollars, as the Board of Directors may fix in each year thereafter, and in consideration as aforesaid, I, the said William H. Hall, do hereby covenant, promise and agree that I will not, so long as the said Herring-Hall-Marvin Company may desire to retain my services as above, engage either in the State of Ohio or in the State of New York or in the State of New Jersey, or in any of the States East of the Mississippi River in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults or sales, or in any business or occupation such as the said corporation known as Hall's Safe & Lock Company has heretofore been engaged in, or the said Herring-Hall-Marvin Company is authorized or empowered to engage in, or in any other business which will compete or interfere in any manner with the business of the said Herring-Hall-Marvin Company.

In witness whereof, I have hereunto set my hand and seal the twelfth day of May, 1892.

Sealed and delivered:
(Signed) WILLIAM H. HALL.

In presence of:
(Signed) LOUIS O. VAN DOREN.

DEF'TS' EXHIBIT No. 273, D. A. B., D. H. P., N. P.

List of Stockholders Hall's Safe & Lock Co.

Article —.

Job. No. —.

Memorandum of Materials.

Date ordered.	Full itemized list. To Depts.	Weight.	Price.	Amt.	Mat.
	E. C. Hall	22	shares.		
430	Chas. O. Hall	10	"		
	John B. Marling	32	"		
	M. A. Dalton	45	"		
	Anna M. Pullen	10	"		
	Carrie L. Hall	16	"		
	W. H. Hall	10	"		
	Kate L. Hart	10	"		
	W. P. Hall	10	"		
	Pearl H. Junkerman	5	"		
	Chloe Hall	5	"		
	Jessie Hall	5	"		
	Sara J. Clarke	10	"		
	Sarah J. Hall	428	"		
		618			
	Trustees of Jos. L. Hall's Estate	2973			
		3591			

Material parts or scrap returned.

Dividends Paid.

1892,	May 31.	Per share	100.	
	June 7.	" "	12.	
	Sept. 20.	" "	25.	
1894,	Aug. 16.	" "	2.50	
			139.50	

DEF'TS' EXHIBIT No. 274, D. A. B., D. H. P., N. P.

NEW YORK, *June 16th*, 1896.

Mr. William H. Hall, Hall's Safe & Lock Works, No. 225 West Pearl street, Cincinnati, O.

DEAR SIR: At a meeting of the executive committee of the Herring-Hall-Marvin Co. held to-day, the committee were informed of

your recently expressed desire to resign your position with this company; and I am instructed by the committee to inform you
431 that upon receipt of your resignation, they are prepared to accept the same, and to terminate any engagement which you may be under — the company.

Mr. William Mosler is fully empowered to accept your resignation, and to execute any document necessary on behalf of the Herring-Hall-Marvin Company to release you from any engagement to it.

Yours truly,
(Signed) JOHN A. SHIBLEY, *Secretary.*

DEF'TS' EXHIBIT No. 275, D. A. B., D. H. P., N. P.

Copy.

CINCINNATI, *June 29th,* 1896.

Mr. John A. Shibley, Sec'y, Herring-Hall-Marvin Co., New York, N. Y.

DEAR SIR: Acting under your favor of the 16th inst., which was handed to me by Mr. Wm. Mosler on June 26th, I hereby tender my resignation as an employee of The Herring-Hall-Marvin Co. to take effect on the 1st day of Aug., 1896, with the understanding that I am fully released by the company of any and all obligations under the contract of May 4th, 1892.

Yours respectfully,
(Signed) W. H. HALL.

DEF'TS' EXHIBIT No. 276, D. A. B., D. H. P., N. P.

NEW YORK, *July 2nd,* 1896.

Mr. William H. Hall, P. O. Box 635, Cincinnati, O.

DEAR SIR: The Executive Committee of the Herring-Hall-Marvin Co., instruct me to acknowledge the receipt of your communication of June 29th, addressed to Mr. John A. Shibley as Secretary of the company, and to inform you that your resignation as an employee of the Herring-Hall-Marvin Company is hereby accepted, to take effect on the 1st day of August, 1896, and that you are hereby fully released from any or all obligation to the company under the contract of May 4th, 1892.

Respectfully yours,
(Signed) C. S. LAKE, *Asst. Treas.*

432 DEF'TS' EXHIBIT No. 277, D. A. B., D. H. P., N. P.

Herring-Hall-Marvin Company.

Prospectus.

Preliminary Prospectus.

NEW YORK, *April* 20, 1892.

Messrs. John H. Davis & Co., New York, Messrs. Connor & Co., New York, are authorized to offer for subscription $1,800,000 of eight per cent. cumulative preferred stock, with the privilege of also subscribing for common stock as mentioned below:

Herring-Hall-Marvin Company,

Organized under the Laws of the State of New Jersey.

Capital Stock, $3,300,000, divided into

18,000 shares eight per cent. cumulative Preferred Stock of $100 each	$1,800,000
15,000 Shares Common Stock of $100 each	1,500,000
	$3,300,000

All shares are full paid stock and non-assessable, stockholder will have no personal liability whatever.

The company begins business without any debt or liability.

The charter of the company and its by-laws provide that no bond or mortgage can be created without the consent of the ninety per cent. of the preferred stockholders, also that this provision cannot be altered except by the like affirmative vote.

Registrar of Stock:

Farmers' Loan and Trust Company, New York.

Transfer Agents:

Messrs. Connor & Co., New York.

433 Counsel: Frank R. Lawrence, New York.
Auditors: Barrow, Wade, Guthrie & Co.

Officers:

Edward C. Hall, President.
John Farrel,
Willis B. Marvin,
Wright D. Pownall,
Vice-Presidents.
Richard T. Pullen, Secretary.
William H. Hall, Treas.

Directors:

Edward C. Hall, of Hall's Safe and Lock Company.
John Farrel, of Messrs. Herring & Company.
Willis B. Marvin, of Marvin Safe Company.
Frank O. Herring, of Messrs. Herring & Company.
Wright D. Pownall, of Marvin Safe Company.
Richard T. Pullen, of Hall's Safe & Lock Company.
William H. Hall, of Hall's Safe & Lock Company.
Richard Dymond, President Central Trust and Safe Deposit Company, Cincinnati.
—— ——, Cincinnati.
—— ——, New Jersey.
—— ——, Cincinnati.

Application will be made to list the securities of this company on the New York Stock Exchange.

The preferred stock will be entitled to cumulative preferential dividends of eight per cent. per annum, payable out of the profits of the company, and will also rank against the assets of the company in preference to the common stock.

The common stock will be entitled to the surplus earnings, when declared in dividends, after payment of the dividend of eight per cent. on the preferred stock.

Dividends on the preferred stock will be payable quarterly. Complete statements showing the condition of the company will be made annually. Accounts will be verified by the auditors of the company and their report transmitted to all shareholders of record.

434 Dividends on the common stock will be declared and paid at the end of each fiscal year, and may be paid more often, provided the full dividend for the current year upon the preferred shares shall first be set apart.

Eighteen thousand shares of eight per cent. cumulative preferred stock are now offered for public subscription at par.

Subscribers will have the privilege of subscribing also for common stock at par to an amount equal to forty per cent. of their preferred stock subscriptions.

The vendors retain a majority of the common stock.

Subscriptions will be payable as follows:

10 per cent on application.
30 per cent on allotment.
30 per cent. in fifteen days)
) after allotment
30 per cent. in thirty days)

The subscription lists will be opened simultaneously at 10 o'clock a. m. on —— and will close at or before 3 o'clock p. m. on —— at the offices of ——.

Subscriptions will also be received at the following banks and bankers:

—— ——.
—— ——.

Allotments will be made as soon as practicable. The right is reserved to reject any subscription or to accept it in part. If any subscription is wholly rejected, the amount deposited on application will be returned. If the whole amount applied for by any applicant is not allotted, the surplus amount paid on application will be applied on the sums due under the allotment.

Preference in allotment will be given to the employees of the several former companies and firms, and to advance subscribers.

Subscribers will have the option of paying in full on the allotment. Interest on the anticipated payments will be allowed at the rate of five per cent. per annum. The failure to pay any installment when due will forfeit previous payments. Receipts will be issued for all amounts paid. Stock certificates will be issued upon the making of final payments.

435 This corporation has been formed to purchase and unite several of the oldest and best known business properties in the United States, viz: those of Messrs. Herring & Co., of New York; the Hall Safe and Lock Company, of Cincinnati, Ohio; the Marvin Safe Company of New York, and Messrs. Farrel & Co., and Myers & Smith, of Philadelphia, manufacturers of fire and burglar proof vaults and safes; the consideration for such purchase being the issue of the preferred and common stock, of the aggregate par value of the three million three hundred thousand dollars ($1,800,000 preferred and $1,500,000 common stock) of the Herring-Hall-Marvin Company.

These properties need no introduction to the public. The business of Messrs. Herring & Co. and that of the Marvin Safe Company originated shortly after the great fire which destroyed the business portion of the City of New York in the year 1835, and each of these concerns has been in continuous and profitable operations for more than half a century.

The business of Farrel & Co., of Philadelphia, has been the branch in that city of the establishment of Messrs. Herring & Co. Messrs. Myers & Smith are manufacturers of safes for Farrel & Co.

The business of Hall's Safe and Lock Company was established about 1845, at Pittsburg, Pa., by Mr. Joseph L. Hall, who shortly after removed his plant to Cincinnati, Ohio, where the business has ever since been continued. Hall's Safe and Lock Company was incorporated in 1867. The business has from the beginning been continuously profitable, and has grown steadily. It is now the largest establishment in existence for the manufacture of safes.

The company begins business as of June 1, 1892.

Statement of the Vendors.

The fire and burglar proof vaults and safes manufactured by the several concerns now united in the Herring-Hall-Marvin Company are in almost universal use in banks, safe deposit companies, express companies, steamship lines, business offices, stores and dwellings, and it need scarcely be said that they represent the latest improvements

and most perfect development of the art of safe-making known to the world.

These safes are of every variety, and range in price from less than $100 each to $100,000 or more for a single bank or safe deposit vault.

436 The steady growth of the business is shown by the fact that the number of safes manufactured by these concerns increased from 6,850 in 1870 to 12,590 in 1880, and 17,800 in 1891. The several establishments employ in the aggregate more than seventeen hundred men.

The factory of Messrs. Herring & Co., in New York City, is situated on South street, at Gouverneur slip, extending through the block to Front Street, and covering the entire front on Gouverneur slip. The buildings Nos. 378 to 381 South street, and 5, 7, and 9 Gouverneur slip, erected upon leased land, are included in the property conveyed to the Herring-Hall-Marvin Company.

The warerooms of Messrs. Herring & Co., in New York, are at the northwest corner of Broadway and Franklin Street, to which they have recently removed from Nos. 251 and 252 Broadway, where they had been located continuously for thirty-five years.

The store of Messrs. Farrel & Co. is at 627 Chestnut Street, Philadelphia.

The factory of Hall's Safe and Lock Company is at Cincinnati, Ohio, where its plant is contained in fourteen buildings, situated on Central Avenue, and Pearl, Second, Plum and Elm streets.

This company has also stores at 324 Broadway, New York; 17 South Ninth Street, Philadelphia, Pa.; corner Fifth and Main streets, Louisville, Ky.; 408 to 410 North Third Street, St. Louis, Mo.; Delaware Street, Kansas City, Mo.; 609 Market street, San Francisco, Cal.; Portland, Ore.; Seattle, Wash.; Cleveland, O.; St. Paul and Minneapolis, Min.; Omaha, Neb.; and New Orleans, La.

The factory of the Marvin Safe Company is situated at Nos. 88, 90 and 92 South Fifth Avenue, New York City, the building extending through to Thompson Street, being seven stories in height, and having a total area of about two and one-half acres of floor space. This building is held by the Marvin Safe Co. under a long lease, which is included in the property transferred to the Herring-Hall-Marvin Company.

The Marvin Safe Company occupies warerooms at 265 and 267 Broadway, New York City; also the store, 723 Chestnut street, Philadelphia, together with an agency at 66 Queen street, London, and another in Amsterdam, Holland.

Besides the many stores and warerooms of the Messrs. Herring, Hall and Marvin, these concerns have agencies in numerous
437 cities in this country. A large trade is also done with Europe, South America, the West Indies and Mexico.

Hitherto, these establishments have been conducted in the sharpest competition with another. Each house has required separate managers, stores, branch offices and agencies and an independent set of salesmen. The great economy to be attained through uniting the several businesses has been a controlling feature in the formation

of the present corporation. The future saving in rent and other expenses to be thus effected will amount annually to more than $100,000.

The property conveyed to the Herring-Hall-Marvin Company embraces all the manufacturing plant, leasehold interests, machinery, tools, implements and patterns used in the manufacture of safes; the cartage plants, horses, trucks and rigging; all the stocks of safes, manufactured, bought and taken in exchange; all materials, manufactured and in course of manufacture, and sundry other properties of the several concerns, with all their patent rights, trade-marks, good-will and certain real estate.

The buildings and leasehold interests conveyed to the new company, together with the manufacturing plant, machinery, fixtures, tools and patterns of the several concerns, have been examined and appraised by experts of high standing, whose certificates are on file at the office of the company.

Messrs. Edward C. Hall, Frank O. Herring, John Farrel, Richard T. Pullen, Wm. H. Hall, Willis B. Marvin and Wright D. Pownall remain as officers and directors of the new company, under contracts by which they agree to continue in its service for five years, or longer if desired. A continuance of the management which has brought these businesses to their present height of prosperity is thus ensured.

The following figures state the total sales made by the several concerns during each of the past five fiscal years:

1886-'87	$1,914,470.98
1887-'88	2,273,892.79
1888-'89	2,421,125.94
1889-'90	2,570,251.72
1890-'91	2,842,676.29

The steady increase in the volume of sales indicates the permanent and reliable demand for the safes manufactured by these concerns, and the consolidation of these enterprises into one company, which does away with the strong competition in prices, will increase the profits of the business to an enormous extent, as the demand for safes of the Herring, Hall and Marvin manufacture is almost unlimited.

438

The books and accounts of the several concerns have been examined by the well known public accountants, Messrs. Barrow, Wade, Guthrie & Co., the result of whose examination is shown in the following certificate:

Accountants' Certificate.

No. 120 Broadway, New York, *April* 14, 1892.

We have examined the books and accounts of the following safe companies for their last three fiscal years ending in 1891, viz: The Hall's Safe & Lock Co., of Cincinnati, Ohio; Marvin Safe Co., of

New York; Herring & Co., of New York; Farrel & Co., of Philadelphia, Pa., and Myers & Smith, of Philadelphia, Pa.

We find the net profits of these several companies and firms, after charging all trading expenses and cost of renewals of plant and machinery, to have been — an average for the three years of $276,320.07 per annum. The profit for the last one of these years amounted to $316,790.10.

The Consolidated Company will start free of all indebtedness, and, in our opinion, with ample working capital.

The assets to be taken over as from the dates of the last stock takings, adopting the valuations of the expert appraisers in respect of plant, machinery, real estate and leaseholds are as follows:

Assets.

Machinery, plant, tools and patterns, as per appraisers' certificates of valuation	$668,681.32
Buildings and leasehold interests, per appraisers' certificates of valuation	116,715.00
Stocks of finished safes on hand, cost	426,071.09
Stocks of material, raw and in process of manufacture, cost	397,724.74
Bills receivable, book accounts and cash balances	365,357.95
Cartage plant, horses, etc	29,424.10
Total	$2,003,974.20

Nothing is included in the foregoing total for any of the patent rights, trade-marks or good-will of either of the several concerns.

(Signed) BARROW, WADE, GUTHRIE & CO.,
Chartered Accountants.

439 This average annual profit is equal to eight per cent. upon the preferred stock, and over eight and three-quarters per cent. upon the common stock, while for the last year the net return was equal to over eleven per cent. upon the common stock after full dividends upon the preferred. As soon as the economies in expense referred to can be effected, the result will yield (upon the basis of the average annual profit for the three years above mentioned), eight per cent. per annum on the preferred stock, and nearly fifteen and one-half per cent. (15.48 per cent.) on the entire common stock.

This calculation allows nothing for the enormous gain to be effected through doing away with the large discounts heretofore allowed by each concern, in view of the competition with the others, nor for the increased sales certain to follow the improved facilities for transacting business which will result from combining these several interests.

No more sound or sterling industry exists than the business of manufacturing fire and burglar proof safes. It meets a sure, steady and increasing demand. It is not affected by the fluctuations which

attend almost every kind of trade, and is exceptionally free from losses by bad debts.

The business possesses no speculative feature. It is purely commercial, and of the most reliable and permanent character.

By the many inventions and improvements of these manufacturers, extending over a lifetime of endeavor, through which each has been stimulated by the strong competition of the others, the art of safe-making has been brought to the highest perfection, and the fire and burglar proof safes and vaults manufactured by either of these houses have, after innumerable tests, been long recognized as absolutely and under all circumstances reliable for the purposes they are intended to fulfill.

The names of these establishments are as widely known as those of any business house in the United States, and the acceptance by the public for a long period of years of the safes manufactured by them, as being the standard safes for all purposes, sufficiently proves the stability of their business.

There being no mortgage or bonds of this company, the preferred stock ranks first against its property and assets; as no bond or mortgage can be created without consent of ninety per cent. of the preferred stockholders, the preferred stock has practically all the
440 security of a bond; and as its cumulative eight per cent. dividend remains until paid a first charge against the net earnings of the company, the preferred stock of this corporation forms an investment of the most solid and remunerative character.

It is manifest that the saving in expense and other gains to result from this consolidation will enable the company to pay upon its common stock a larger dividend than upon its preferred shares, and the common stock will, in addition, be entitled to the benefits to result from the feature expansion of the company's business.

Endorsed: Evening Post Job Printing House, New York.

DEF'TS' EXHIBIT No. 278, D. A. B., D. H. P., N. P.

Copy of Minutes of Special Meeting of Board of Directors of Hall's Safe & Lock Co.

Special meeting of the board of directors held May 31st, 1892, pursuant to notice served personally on each director.

Present: W. H. Hall; C. O. Hall; John B. Marling; W. P. Hall, and W. C. Cochran.

Mr. Cochran reported that in pursuance of the resolution adopted at the last meeting of the board, and approved by the stockholders, the president and himself had gone to New York and there entered into a written agreement with Messrs. Jennings S. Cox and Anson G. P. Segur for the transfer of the entire property and business of this company to them, free of all debts and liabilities for the sum of seven hundred thousand ($700,000) dollars in cash, and six hundred and fifty thousand ($650,000) dollars in full paid common

stock of the Herring-Hall-Marvin Company, and had executed a bill of sale covering all such property and business, an assignment of all of the company's interest in the letters patent owned by it, or by the estate of the late Joseph L. Hall, in deeds of assignment of all its leasehold interests in real estate, situated in Cincinnati, Cleveland, New York, San Francisco and Kansas City, and had produced an assignment from the trustees of the estate of Joseph L. Hall, deceased of all the interest of said estate in and to said letters patent and deposited and executed copy of said agreement
441 and said bill of sale, assignments of patents and deeds of conveyance with the Union Trust Company, of New York, to be held by it in escrow, and to be delivered to said Jennings S. Cox and Anson G. P. Segur upon the deposit with said trust company to the order of this company of the agreed compensation, to-wit: seven hundred thousand ($700,000) dollars in cash, and six hundred and fifty thousand ($650,000) dollars in full paid common stock of the Herring-Hall-Marvin Company, provided said deposit was made within thirty-five (35) days from the day for closing subscriptions to the stock of said Herring-Hall-Marvin Company, which was about to be offered to the public by Messrs. Conner & Co., and John H. Davis & Co. of New York, otherwise to be returned to this company on demand and had received a receipt from the said Union Trust Company which reads as follows:

"Union Trust Company of New York.

"NEW YORK, *May 13th,* 1892.

"Received from Hall's Safe and Lock Company, agreement executed by them with Messrs. Jennings S. Cox and Anson G. P. Segur, dated May 12th, 1892, together with sundry instruments as stated in list accompanying said agreement, which are as follows:

"Hall's Safe and Lock Company to Jennings S. Cox and Anson G. P. Segur, assignment of leases at Cincinnati.

"Same to same, assignment of leases at Cleveland.

"Same to same, assignment of leases, San Francisco, New York and Kansas City stores.

"Same to same, assignment of eighteen letters patent.

"Trustees of Joseph L. Hall to same, assignment of fourteen letters patent.

"Hall's Safe and Lock Company to Cox & Segur, bill of sale.

"Agreement of Edward C. Hall with Herring-Hall-Marvin Company for services.

"Agreement of Richard T. Pullen with Herring-Hall-Marvin Company for services.

"Agreement of William H. Hall with Herring-Hall-Marvin Company for services.

"Which instruments are to be held by this company and delivered in accordance with the terms of a memorandum on file with this company.

"UNION TRUST COMPANY OF
"NEW YORK,
"(Signed) EDWARD KING, *President.*"

442 On Saturday, May 14th, Messrs. Connor & Co., and John H. Davis & Co., caused advertisements to be inserted in the principal New York and Cincinnati papers, offering for subscription one million, eight hundred thousand ($1,800,000) dollars of the preferred stock, and five hundred thousand ($500,000) of the common stock of said Herring-Hall-Marvin Company, announcing Thursday May 19th, as the day for closing the subscription lists. This would make the twenty-third (23rd) of June the last day within which payment could be made to the Union Trust Company, and delivery of the bill of sale, etc., could be demanded by Messrs. Cox and Segur. By the terms of the agreement this company is to turn over to said Messrs. Cox & Segur, all profits realized on its business since June 30th, 1891, and in lieu thereof is to take out of the property and assets it may have on hand at the time of delivery the sum of eighty-six thousand, six hundred and twenty-five ($86,625) dollars, and an additional sum amounting to two hundred and sixty-two dollars and fifty cents ($262.50) per diem for every day the sale of transfer is delayed beyond June 1st, 1892.

Mr. Frank R. Lawrence, Counsel for the promoters has written under date of May 28th, 1892, that Messrs. Cox and Segur will be prepared to carry out their part of said agreement by the deposit of the seven hundred thousand ($700,000) dollars in cash and six hundred and fifty thousand (650,000) in paid up common stock of the Herring-Hall-Marvin Company with the Union Trust Company, to the order of this company on Thursday, June 2nd, 1892.

On motion of C. O. Hall the report of the secretary was accepted, and ordered to be spread upon the minutes, and the action of the president and secretary was approved in every particular.

Mr. Cochran tendered his resignation as a member of the board and as secretary of the company, because of want of time to properly discharge the duties of those offices, and because there was no longer any reason why the former secretary should not occupy his old position. On motion of C. O. Hall the resignation was accepted, and R. T. Pullen was unanimously elected a member of the board, and secretary of the company.

Walker P. Hall also tendered his resignation as a member of the board. The resignation was accepted, and Mr. E. C. Hall was unanimously re-elected a member of the board.

Mr. W. H. Hall resigned as president and treasurer of the
443 company in favor of E. C. Hall. The resignation was accepted and E. C. Hall unanimously re-elected president and treasurer of the company.

On motion of W. H. Hall resolved that the president be authorized to receive all of the common stock of the Herring-Hall-Marvin Company deposited with the Union Trust Company to the order of this company in part payment for the business and property of this company as trustee for the stockholders, and to dispose of the same at such time and on such terms as may seem to him best for their interests, provided that no sale should be made for less than par, and that any stockholder of this company should have the preference and be allowed to take as much of said stock as he desired at

par; said stock to be paid for out of the future dividends declared on the stock of this company so far as the same will apply.

On motion of Mr. J. B. Marling and on the representation of the president and treasurer that the balance of cash remaining would be more than sufficient to pay all indebtedness and the expense of winding up this company, resolved that a cash dividend of one hundred ($100) dollars per share be declared, and that the president and treasurer pay the same to the stockholders on demand out of the cash deposit with the Union Trust Company for the purchase of its property and business.

On motion of C. O. Hall resolved that the president and treasurer proceed without delay to pay off and discharge all debts and liabilities of this company, to close up all unfinished business and to settle all pending claims and suits against the company so far as possible, and to report to this board at the earliest practicable date his action under this resolution.

On motion W. H. Hall was re-elected vice-president of the company.

On motion of C. O. Hall, adjourned.

HALL'S SAFE & LOCK CO., [SEAL.]
E. C. HALL, *President.*

I hereby certify the foregoing to be a copy of the minutes of the special meeting of the Board of Directors of Hall's Safe & Lock Company, held May 31st, 1892.

RICHARD T. PULLEN, *Secretary.*

DEF'TS' EXHIBIT No. 279, D. A. B., D. H. P., N. P.

Copy.

CINCINNATI, O., *June 7th*, 1892.

Called meeting of the Board of Directors of Hall's Safe &
444 Lock Co. to take action upon a further dividend on account in cash on stock—full board being present.

Upon motion of Mr. W. H. Hall, the President and Treasurer was authorized to pay to each stockholder a dividend in cash of twelve ($12.) dollars per share; the said amount to be paid out of the proceeds of the sale of the entire property and business of the Hall's Safe & Lock Company.

The president and treasurer was also authorized to issue to each stockholder of record, the following number of shares of the common stock of the Herring-Hall-Marvin Co. the same to be accepted by the said stockholders at par as a further dividend on the stock of Hall's Safe & Lock Company:

Sarah J. Hall	347
Edward C. Hall	18
Charles O. Hall	8
Anna M. Pullen	8
Wm. H. Hall	8

Kate L. Hart	8
Walker P. Hall	8
Pearl Hall Junkerman	4
Joseph L. Hall's Est.	2408
John B. Marling	26
M. A. Dalton	37
Carrie L. Hall	13
Chloe Hall	4
Jessie Hall	4
Sarah Hall Clarke	8
	2909

R. T. Pullen seconded the motion which was unanimously carried.

No further business appearing, the meeting adjourned.

DEF'TS' EXHIBIT No. 280, D. A. B., D. H. P., N. P.

Copy.

CINCINNATI, O., *Sept.* 20, 1892.

Called meeting of the Board of Directors of Hall's Safe &
445 Lock Company to take action upon a further dividend on account, in cash and stock, the full board being present.

Upon motion of Wm. H. Hall, the President and Treasurer was authorized to pay each stockholder a dividend in cash of twenty-five ($25) dollars per share; said amount to be paid out of the proceeds of the sale of the entire property and business of the said Hall's Safe & Lock Company.

The president and treasurer was also authorized to issue to each stockholder of record the same number of shares of the common stock of the Herring-Hall-Marvin Company as held by each stockholder in Hall's Safe & Lock Company; the same to be accepted by the said stockholders at par as a further dividend on the stock of Hall's Safe & Lock Company.

R. T. Pullen seconded the motion, which was unanimously carried.

No further business appearing, the meeting adjourned.

DEF'TS' EXHIBIT No. 281, D. A. B., D. H. P., N. P.

Copy.

CINCINNATI, O., *Aug. 16th*, 1894.

Called meeting of the board of directors this day at ten o'clock, a. m.

Present: Edward C. Hall, John B. Marling, Wm. H. Hall, and Richard T. Pullen being a majority of the board—the meeting being called for the purpose of taking action towards a further distribution of the cash on hand.

On motion of Mr. W. H. Hall, it was resolved that a dividend of two dollars and fifty cents ($2.50) in cash be declared on each share of the capital stock of three thousand, five hundred and ninety-one (3591) shares, amounting to eight thousand nine hundred and seventy-seven dollars and fifty cents ($8,977.50).

John B. Marling seconded the motion, which was carried.

No further business appearing, the meeting adjourned.

446 DEF'TS' EXHIBIT No. 282, D. A. B., D. H. P., N. P.

Balance Sheet May 15, '93.

Edward C. Hall, President; William H. Hall, Treasurer; Richard T. Pullen, Secretary.

Office of Herring-Hall-Marvin Co.

Principal office: Cincinnati, O.
Factories: Cincinnati, New York, Philadelphia.

Balance Sheet of Herring-Hall-Marvin Co. to May 15, '93.

Resources.

Cash on hand		$38,981.70
Bills receivable on hand		68,923.33
Safes per inventory		187,512.45
Time locks per inventory		3,075.00
Tools and machinery		364,685.82
Real estate—Buildings		65,715.00
Material—Iron, steel, castings, cement, paint, fuel, and cartage plant		219,472.20
Herring Factory—Tools, machinery and material		307,223.91
Marvin Factory—Tools, machinery and material		286,436.32
Myers & Smith Factory—Tools, machinery and material		36,718.72
Branch Houses—Safes, accounts, fixtures and samples		404,192.41
Accounts receivable		204,075.77
Good will and patent account		1,296,025.80
		$3,483,038.43

Liabilities.

Capital stock—Preferred	$1,800,000	
Common	1,500,000	
		3,300,000.00
Summary Purchase account		12,798.22
Accounts Payable		26,192.17
By Profit and Loss, net gain after paying three preferred dividends		144,048.04
		$3,483,038.43

447 *Profit and*

Rent account	$120,921.56
Advertising account	3,462.49
Commission account	108,379.73
Insurance account	14,731.33
Stamp account postage	2,860.89
Dividend account three preferred dividends paid	108,000.00
To Profit and loss, net gain after paying three preferred dividends	144,048.04
	$502,404.04

Loss Accounts.

Safe account	$455,426.47
Time lock Account	30,725.35
Cash Discount account	5,281.93
Cartage plant taken from material acc't	2,679.00
Repair account	8,291.29
	$502,404.04

Dividend declared June 1, 1893:		
On preferred stock, 2 per cent	$36,000.00	
On common stock, 4 per cent	60,000.00	
Transferred to Surplus Fund	48,048.04	
		$144,048.04

To the President and Board of Directors of Herring-Hall-Marvin Co.

GENTS: Having examined the books and accounts of Herring-Hall-Marvin Co. for the fiscal year ending May 15th, 1893, I find the accounts are well kept, and that the result is shown in the statement above as the condition of its resources and liabilities May 15th, 1893. All of which is respectfully submitted.

ISAAC BAUGHMAN,
Expert Accountant.

DEF'TS' EXHIBIT No. 283, D. A. B., D. H. P., N. P.

Annual Statement, June, '94.

Edward C. Hall, Prest.; William H. Hall, Treas.; Richard T. Pullen, Sec'y.

448 Herring-Hall-Marvin Co.

Principal Office: Cincinnati.
Factories: Cincinnati, New York, Philadelphia.

Annual Statement of Herring-Hall-Marvin Company.

General Profit and Loss Statement. May 16, 1893, to April 30, 1894.

DR.

To materials used	$376,442.42
To wages	602,145.97
To rent of factories and stores	89,611.43
To freight and cartage	58,302.41
To coal, gas and water	16,029.58
To taxes and insurance	14,561.05
To commission and allowances	61,297.05
To general expenses	151,157.17
	$1,369,547.08

CR.

By safe account	$1,339,305.60
By interest and discount account	7,425.54
By balance, being loss	22,815.94
	$1,369,547.08

Balance Sheet. April 30th, 1894.

Assets:

Real estate and buildings	$94,450.42
Machinery, tools and fixtures	745,603.84
Safes ready for sale	521,747.73
Safes in process and materials	359,442.86
Bills and accounts receivable	259,383.24
Cash in banks and on hand	38,722.04
Patent rights and good-will	1,283,227.58
Quarterly dividends paid on preferred capital stock	108,000.00
Balance of profit and loss account (See above statement.)	22,815.94
	$3,433,393.65

449 Liabilities:

Preferred capital stock	$1,800,000.00
Common Capital	1,500,000.00
Reserve account	48,048.04
Accounts payable	85,345.61
	$3,433,393.65

We hereby certify that we have audited the books and accounts of the Herring-Hall-Marvin Company, for the period from May 16th, 1893, to April 30th, 1894, and have prepared the above statement of profit and loss account and balance sheet therefrom. In our opinion the above balance sheet truly shows the position of the company on the date named.

(Signed) BARROW, WADE, GUTHRIE & CO.,
Auditors.

Chicago, June 30th, 1894.

Directors.

Edward C. Hall.
John H. Davis.
W. S. Rowe.
W. H. Hall.
Wright D. Pownall.
Joseph Rawson.
Richard Dymond.
Willis B. Marvin.
Frank O. Herring.
John Farrel.
Richard T. Pullen.

DEF'TS' EXHIBIT No. 284, D. A. B., D. H. P., N. P.

Notice June 30-94. Dividends Suspended.

Herring-Hall-Marvin Company.

CINCINNATI, O., *June 30th*, 1894.

DEAR SIR: Enclosed please find the annual statement of the Herring-Hall-Marvin Co. for the fiscal year ending April 30th, 1894.

Owing to the depression in business and a great falling off in the company's sales, especially during the latter part of the year, the directors are not justified in declaring the preferred stock dividend for the last quarter.

450 At the present time the company has a large stock of safes and materials on hand, the latter purchased at exceptionally favorable prices, and the directors have no doubt that with a revival in general trade the business of the company will resume its normal condition as to both sales and profits.

Respectfully yours,

E. C. HALL, *President.*

DEF'TS' EXHIBIT No. 336, D. A. B., D. H. P., N. P.

Voting Trust Agreement.

Herring-Hall-Marvin Company.

Voting Trust Agreement.

Agreement made the second day of January, 1896, between all the stockholders of the Herring-Hall-Marvin Company who shall become parties to this agreement by signing the same (hereinafter called the stockholders), parties of the first part and Willis B. Marvin, Wright D. Pownall, Francis W. Carpenter, Stephen A. Jenks and John A. Shibley (hereinafter called the voting trustees), parties of the second part;

Whereas, the parties of the first part deem it to their interest to act together concerning the management of the Herring-Hall-Marvin Company, of which they are respect*ful*ly stockholders, to that end to unite the voting power held by them as such stockholders, and to place the same in the hands of the voting trustees, as hereinafter provided;

Now this agreement, made in consideration of the premises, of the mutual covenants herein, contained, and of one dollar by each of the parties to the others in hand paid, witnesseth as follows:

First. Each party hereto of the first part, holding shares of the capital stock of the Herring-Hall-Marvin Company to the number set opposite his, her, or its name as hereunto subscribed respectively, hereby severally agrees to deposit the same and the certificates therefor, with sufficient transfers thereof in favor of the persons hereinbefore named as voting trustees, with the Manhattan Trust Company of the City of New York, and to receive in exchange
451 therefor the certificates hereinafter referred to, which deposit shall continue for the period of five years from the date of this agreement, that is to say, until the second day of January, 1901; and upon the making of such deposit all shares represented by the stock certificates so deposited shall be transferred upon the books of said Herring-Hall-Marvin Company to the names of said voting trustees, who are hereby fully authorized and empowered to cause such transfers to be made, and also to cause any further transfers of said shares to be made which may become necessary through the occurrence of any change of the persons holding the office of voting trustee as hereinafter provided. And during the said period of five years the voting trustees shall possess and be entitled to exercise all rights of every name and nature, including the right to vote, in respect of any and all such shares deposited; it being, however, understood that the holders of the trust certificates of either class to be issued by the voting trustees shall be entitled to receive payments equal to the dividends, if any, collected by said voting trustees, upon shares of such class standing in their names.

Second. The voting trustees do hereby promise and agree with the stockholders and with every holder of certificates issued as hereinafter provided, that from time to time, upon request, they will cause to be issued to the several stockholders in respect of all stock de-

posited by them, certificates to an aggregate amount equal to the amount of all stock so deposited and which certificates as to the two classes of stock of said company, preferred and common, shall be in substantially the following forms respectively:

Herring-Hall-Marvin Company.

Preferred Stock Trust Certificate.

This is to certify, that on the 2d day of January, 1901, —— —— will be entitled to receive a certificate or certificates for — full paid shares of one hundred dollars each in the preferred capital stock of the Herring-Hall-Marvin Company, and in the meantime to receive payments equal to the dividends, if any, collected by the undersigned voting trustees upon a like number of such shares of preferred capital stock standing in their names; and until the said 2d day of January, 1901, the voting trustees shall possess and be entitled to exercise all rights of every name and nature, including the right to vote, in respect of any and all such stock; it
452 being expressly stipulated that no voting right passes to the holder hereof or under this certificate, or by or under any agreement, express or implied.

This certificate is issued pursuant to the terms of an agreement in writing, dated January 2, 1896, made and entered into between stockholders of said company and said voting trustees, which agreement is on file with the Manhattan Trust Company of New York.

This certificate is transferable only on the books which shall be kept for that purpose by said voting trustees, by the registered holder, either in person or by attorney duly authorized, according to rules which shall be established for that purpose by said voting trustees, and on surrender hereof; and until so transferred, said voting trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that delivery of said certificates hereunder shall not be made without the surrender hereof.

This certificate is not valid unless signed by the duly authorized agent of the voting trustees and also countersigned and registered by the Manhattan Trust Company of New York, as registrar.

In witness whereof, said Voting Trustees have caused this certificate to be signed by their duly authorized agent, this — day of ——, 189–.

WILLIS B. MARVIN,
WRIGHT D. POWNALL,
FRANCIS W. CARPENTER,
STEPHEN A. JENKS,
JOHN A. SHIBLEY,
Voting Trustees.

By their agent hereunder,

—— ——.

Countersigned and registered this — day of ——, 189–.

MANHATTAN TRUST COMPANY,
Registrar.

By —— ——.

Herring-Hall-Marvin Co.

Common Stock Trust Certificate.

This is to certify, that on the 2d day of January, 1901, — will be entitled to receive a certificate or certificates for full paid
453 shares of one hundred dollars each in the common capital stock of the Herring-Hall-Marvin Company, and in the meantime to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like number of such shares of common capital stock standing in their names; and until the said 2nd day of January, 1901, the voting trustees shall possess and be entitled to exercise all rights of every name and nature, including the right to vote, in respect of any and all such stock; it being expressly stipulated that no voting right passes to the holder hereof by or under this certificate or by or under any agreement, express or implied.

This certificate is issued pursuant to the terms of an agreement in writing, dated January 2, 1896, made and entered into between the stockholders of said company and said voting trustees, which agreement is on file with the Manhattan Trust Company of New York.

This certificate is transferable only on the books which shall be kept for that purpose by said Voting Trustees, by the registered holder, either in person or by attorney duly authorized, according to rules which shall be established for that purpose by said voting Trustees; and on surrender hereof, and until so transferred, said Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that delivery of said certificates hereunder shall not be made without the surrender hereof.

This certificate is not valid unless signed by the duly authorized agent of the voting trustees, and also countersigned and registered by the Manhattan Trust Company of New York, as registrar.

In witness whereof, said Voting Trustees have caused this certificate to be signed by their duly authorized agent, this — day of ——, 189–.

WILLIS B. MARVIN,
WRIGHT D. POWNALL,
FRANCIS W. CARPENTER,
STEPHEN A. JENKS,
JOHN A. SHIBLEY,
Voting Trustees.

By their agent hereunder,

—— ——.

Countersigned and registered this — day of ——, 189–.
MANHATTAN TRUST COMPANY,
Registrar.

By —— ——.

454 Third. On the second day of January, 1901, the voting trustees, in exchange for and upon surrender of any of their trust certificates then outstanding, will in accordance with the terms

hereof deliver proper certificates of equivalent kind and amount of stock of the Herring-Hall-Marvin Company.

Fourth. From time to time, after this agreement shall have taken effect, the voting trustees may receive any additional full paid shares of the capital stock of the Herring-Hall-Marvin Company, either preferred or common, upon the terms and conditions of this agreement; and in respect of all such shares so received, will issue and deliver certificates similar to those above mentioned, entitling the holders to all the rights above specified.

Fifth. Any voting trustee may at any time resign by delivering to the other voting trustees in writing his resignation, to take effect ten day- thereafter; and in every cause of death, resignation or vacancy arising through other cause, the vacancy so occurring shall be filled by the appointment of a successor or successors, to be made by the other voting trustees by a written instrument; and the term "Voting Trustees" as herein used, shall apply to the parties of the second part and their successors hereunder.

Sixth. All questions arising between the voting trustees shall from time to time be determined by the decision of the greater number of those then acting as voting trustees, either at a meeting, or by writing, with or without meeting, and in like manner they may establish their rules of action. The decision or act of a majority of the voting trustees shall, for the exercise of the voting power, and for all purposes of this agreement, be deemed the decision or act of all of the voting trustees.

Seventh. In voting the stock held by them, the voting trustees will exercise their best judgment from time to time to select suitable directors, to the end that the affairs of the company shall be properly managed, and in voting on other matters which may come before them at any stockholders' meeting, will exercise like judgment; but it is understood that no voting trustee incurs any responsibility by reason of any error of law or of any matter or thing done or omitted under this agreement, except for his own individual malfeasance.

Eighth. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

455 Ninth. This agreement shall not be binding upon the parties until the same shall have been signed by the stockholders representing a majority of the capital stock of the company.

In witness whereof, the several parties hereto have hereunto set their hands and seals the day and year first above mentioned, and the voting trustees have hereunto set their hands and seals in token of their acceptance of the trust hereby created.

DEF'TS' EXHIBIT No. 337, D. A. B., D. H. P., N. P.

Circular Soliciting Consent of Stockholders to Voting Trust.

Ed. The N. Y. "Managers" are utilizing the same tactics to obtain proxies they did before. The questions of "selling goods" is relegated to the rear. The great thing now is proxies.

ED.

John H. Davis & Co., Bankers. 10 Wall Street.

Cable address, Fymdav—New York.

NEW YORK, *January* 20, 1896.

To the Stockholders of the Herring-Hall-Marvin Co.

GENTLEMEN: In answer to inquiries received by us regarding the Herring-Hall-Marvin Company Voting Trust Agreement, we beg to say:

During the first year of its existence, this company earned and paid dividends on both classes of its stock, besides placing a substantial amount in reserve. At about that time the great shrinkage and depression in business, with which every one is familiar, began. The result was that the gross sales of this company's product began to rapidly decrease, and for the fiscal year ending April 30th, 1895, were fifty per cent. less than those of the first year.

It will be readily understood that this great falling off in trade was sufficient to convert a highly profitable business into a losing one. It was impossible to reduce the fixed expenses of a large manufacturing concern in proportion to so great a falling off of its business.

Aside, however, from the business depression, the entire safe industry has suffered from a ruinous competition, the prices named to secure orders having in very many cases left no margin
456 of profit, and numbers of large contracts having been taken even below cost, to prevent their going elsewhere.

At the present time, in order to retrieve its losses and place the company again in a position to transact a large and profitable volume of business, an accession of new capital, or credit or both, is imperatively required, and an endeavor has been made to find a means by which these necessary elements could be secured without calling upon the stockholders to provided them. We are not unmindful also of the need of such improvement in actual working management as practical managers shall from time to time find to be possible.

In efforts that have been made by ourselves, and others largely identified with this company, to ascertain what changes were necessary to place it again upon a paying basis and arrange to have such changes carried out, we have been fortunate enough to interest three gentlemen, whose means, business reputation and uniform suc-

cess in other large industrial properties under their management furnish a guarantee, both of their sincerity and ability, which is beyond question. These gentlemen expect to supply additional means and credit adequate for the conduct of the company's business and to give their time and the benefit of their experience in the management of its affairs. They and their associates in the voting trust are to receive no compensation of any kind for their services, feeling satisfied that they can make the business of the company a paying one, and in this way benefit both themselves and all of their fellow stockholders.

All a stockholder is asked to surrender is the voting power of his stock for a period of five years. The voting trustees could not be expected to give the credit, time and attention which they agree to furnish, and assume the responsibility of management, unless properly secured in their control of the company's affairs. The stockholders are not, and cannot be, assessed in any way. The Manhattan Trust Company's certificate, which they will be given for shares deposited, will be in the name of the depositor; assignable; negotiable, entitled to receive the benefit of any and all dividends declared and, in short, the same in all respects as the certificates now held—the voting power alone excepted. Unless a majority of the total capital stock of the company—common and preferred—is deposited under this voting trust agreement, those who have deposited their certificates will receive them back just as they
457 surrendered them. A very large number of assents and stock certificates have already been received by the trust company and it is most important that the arrangement be affected as soon as possible.

If you approve of this arrangement please do what you can to insure the prompt and successful accomplishment of the plan by at once signing and sending, either to us or directly to the Manhattan Trust Company, corner Wall and Nassau Streets, New York the voting trust agreement, and your certificate of stock, for deposit.

Yours very truly, JOHN H. DAVIS & CO.

DEF'TS' EXHIBIT No. 338, D. A. B., D. H. P., N. P.

Notice of Special Meeting of Stockholders—Feb. 18/96, *to be Held March* 3/96.

Herring-Hall-Marvin Company, Notice of Stockholders' Meeting.

NEW YORK, *February* 18, 1896.

DEAR SIR: You will please take notice that a special meeting of the Stockholders of the Herring-Hall-Marvin Company will be held at the office of said company at No. 83 Montgomery Street Jersey City, New Jersey, on the third day of March, 1896, at eleven o'clock a. m., for the purpose of considering and acting upon certain proposed Amendments to Sections 2, 4, 8, 9, 10, 12 and 20 of the by-laws of the company, which have been presented, and

the adoption of which has been recommended to the stockholders by the board of directors. A copy of said proposed amendments is hereto annexed. If you cannot be present in person at the meeting of stockholders, please sign and return the enclosed form of proxy.

By order of the board of directors.

JOHN A. SHIBLEY, *Secretary.*

Proposed Amendments to By-Laws.

II.—Special Meetings.

Special meetings may be called at any time by order of the president, or the board of directors, or upon the request
458 in writing of such number of stockholders as may collectively represent a majority of the out standing capital stock of the company.

IV.—Proxies.

At any meeting of the stockholders, any stockholder may vote in person, or by proxy, or attorney, duly appointed by a written instrument subscribed by such stockholders, and duly attested, and filed with the secretary at or before the meeting. In case any stock of the company shall be held by two or more persons as executors, administrators, guardians, trustees, or in any other representative capacity, then, and in any such case the majority of such persons may cast the vote of all the stock so held, and in case of the absence of any of such persons, their vote may be cast by proxy by any one of the others present at such meeting.

At all meetings each stockholder shall be entitled to one vote for each share of the capital stock held or represented by him or her.

VIII.—Quorum of Board of Directors.

Six members of the Board of Directors shall constitute a quorum. Regular meetings of the board shall be held quarterly, at one of the company's offices, at such time as the president may designate. Meetings of the board may be called at any time by order of the president, or on the written request of a majority of the board.

IX.—Executive Committee.

There shall be appointed from the Board of Directors an Executive Committee of three, who shall have the active control and supervision of the company's property and business, and in connection with the treasurer shall have full charge of the financial affairs of the company. They shall have power to appoint and discharge agents, salesmen, and all subordinate officers an demployees; to fix the compensation of all the officers and members of the company, and its agents and employees, including their own, and shall control and discontinue branch factories, stores and agencies for the sale of the company's goods, and conduct all the ordinary business

of the company, subject at all times to the control of the Board of Directors, and for that purpose they shall meet as often
459 as the Chairman of the Committee may require. In the case — the absence of the president, the chairman of the executive committee shall succeed to his powers and perform his duties, except such as are required by law, or by these by-laws to be performed by the vice-president.

X.—President.

The president shall preside at all meetings of the board of directors and stockholders. He shall sign, with the treasurer, all stock certificates, and all such obligations for the payment of money as the executive committee may, from time to time, approve, or as may be necessary in or about the business of the company. He shall countersign all notes issued by the company.

XII.—Treasurer.

The treasurer shall, in the name of the company, deposit the funds of the company in such depositories as may be designated by the board of directors. He shall receipt, or cause to be receipted for, all moneys paid to him for or on account of the company; pay all bills and orders which shall have received the approval of the executive committee, or of any person or committee authorized by the board to approve the same, and take proper vouchers for all payments; and shall cause all such vouchers, as well as orders and bills, together with the record of the expenditures aforesaid, to be filed and properly preserved. He shall, in connection with the executive committee, have full charge of the financial affairs of the company. He shall keep, or cause to be kept, true and accurate accounts of all receipts and expenditures, and render a statement of the same, if requested, at each meeting of the board of directors, and at the annual stockholders' meeting. He shall sign all certificates signed by the president, and shall sign all checks and promissory notes that may be issued by the corporation, and indorse all notes, drafts or checks that may be received by the corporation. He shall sign all certificates of stock, and perform such other duties as may be prescribed by law or shall be, from time to time, required by the executive committee. He shall, if required, give a bond for the faithful discharge of his duties, in such sum and with such sureties as the board of directors may require and approve. The board of directors may also appoint an assistant treasurer, who shall
460 perform such duties as the executive committee of the treasurer may, from time to time, prescribe, and who shall give such bond for the faithful discharge of his duties as the board of directors may require.

XIV.—Secretary.

The secretary shall keep the minutes of the meetings of the board of directors and of the meetings of the stockholders; attend to giving and serving all notices required by law or by these by-laws; shall

affix the seal of the company to all necessary instruments; shall have the charge and custody of the seal, and of such books and papers of the company as the executive committee may prescribe, subject to the inspection thereof at all reasonable times by the directors. He shall perform all other duties incident to his office, whether such as are required by law or as may, from time to time, be directed by the board of directors. He shall be sworn to the faithful discharge of his duties as required by statute.

XX.—Auditors' Examination.

An inventory of the property of the company, and a complete statement showing its condition, shall be made annually, or at such other times as may be required by the executive committee. Accounts shall be verified by the auditors, and their report shall be submitted to the annual stockholders' meeting.

JOHN A. SHIBLEY, *Secretary.*

DEF'TS' EXHIBIT No. 339, D. A. B., D. H. P., N. P.

Notice About Advertisements.

Special Notice to Dealers.

CINCINNATI, *February* 25, 1902.

We have lately had our attention called to the fact that certain dealers, who are handling our goods, are advertising in such a way as to make it appear that we are relying upon what has been to boost our reputation. This must be stopped.

Our Safes Make Their Own Reputation.

We are making what we know to be the best safe in the
461 market, and you must put our goods forward simply and wholly on their merits.

We are not successors to any one, but simply
The Hall's Safe Company,
P. O. Box 846,
Cincinnati, Ohio.
Makers of all that is best in our line of manufacture.

DEF'TS' EXHIBIT 350, D. H. P., N. P.

W. J. Sames. Ciphers:—
J. R. Moore. Robinson Western Union.

Sames, Moore & Co., Wholesale Grocers, Importers and Dealers in Mexican Products.

LAREDO, TEXAS, *Jan. 3rd,* 1905.

Hall's Safe Co., Box 846, Cincinnati, Ohio.

DEAR SIR: We have yours of the 29th and trust you will be able to make quick shipment of our order. The letter returning ours simply stated that H. H. M. S. & Lock Co. has bought name of Hall's Safe & Lock Co. and for that reason all mail for that name was sent to them. The letter was forwarded from your city to Hamilton by the postmaster.

Yours very truly, SAMES, MOORE & CO.

DEF'TS' EXHIBIT No. 351, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit Work,
of every description.

HAMILTON, OHIO, 6/25/03.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: The writer's attention is called to your favor
462 of the 24th referring to such mail as may come to the Herring-Hall-Marvin Safe Company and which as is developed, should apply to your company.

It has been a rule to forward all such documents in the manner they have been received, but within the past week in opening the mail inadvertently the envelopes may have been thrown in the waste-basket.

A memorandum has been made to comply with your request. The enclosed communications speak for themselves.

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
R. T. PULLEN, *Vice-President.*

R. T. P.—H.

DEF'TS' EXHIBIT No. 352, D. H. P., N. P.

Edward S. Hall, Pres. Wm. Harry Hall, V. Pres.
S. Frederick Kemper, Sec'y. & Treasurer.

The Hall's Safe Co.

Principal Office & Factory. P. O. Box 846.

The Best Equipped Safe and Bank Vault Factory in the World.

Cable Address, "Hallsafe."

SPRING GROVE AVENUE, CINCINNATI, O., *Aug.* 14/03.

Herring-Hall-Marvin Safe Co., Hamilton, Ohio.

GENTLEMEN: Kindly send us a certain letter in your possession which was intended for this company—it is from W. E. Jakway Co., Kearney, Neb. and was answered by you on August 10th.

The W. E. J. Co. sends us your August 10th letter endorsed on face as follows,—"We just received this letter which will explain matters;" they have also given us instructions regarding the lock to which they refer in the letter above mentioned.

We desire to have, this correspondence together hence our request.

Yours respectfully,

HALL'S SAFE CO.,
By —— ——, *Treasurer.*

463 DEF'TS' EXHIBIT No. 353, D. H. P., N. P.

Edward C. Hall, Pres. Wm. Harry Hall, V. Pres.
S. Frederick Kemper, Sec'y. & Treasurer.

The Hall's Safe Co.

The best equipped Safe and Bank Vault Factory in the World.

Copy.

SPRING GROVE AVENUE, CINCINNATI, O., *Aug.* 10, '03.

W. E. Jakway Co., No. 2014 Central Ave., Kearney, Neb.

GENTLEMEN: We have received from you a lock sent to us by express, but we have no letter concerning same. Will you please advise us what you want us to do with same.

Yours very truly,

(Signed) THE HALL'S SAFE CO.
C. O. HALL.

Copy.

Please send us new lock to fit or rep. old one. We wrote to you but suppose letter is lost.

Yours Re'p't.,

(Signed) W. E. JAKWAY CO.
H. S. L.

See repair orders for original letter.

DEF'TS' EXHIBIT No. 354, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit Work,
of every description.

464 HAMILTON, OHIO, *Aug.* 10, 1903.

Messrs. W. E. Jakway Co., Kearney, Neb.

GENTLEMEN: We are in receipt of your favor without date addressed to the Hall Safe & Lock Co., of Cincinnati, to which firm we are the successors, our plant now being located at Hamilton. We presume that the lock referred to was also addressed to Cincinnati, and if this is the case we would suggest that you start a tracer after the package with instructions that it come to us at this point.

When the package is received we will give the attention you desire.

Yours very truly,
HERRING-HALL-MARVIN SAFE CO.
E. W. FRECHTLING.

We just received this letter which will explain matters.
W. E. J. CO.

DEF'TS' EXHIBIT No. 355, D. H. P., N. P.

W. E. Jakway Co., Wholesale and retail hardware, bicycles and seeds—Sporting goods, gun and bicycle repairing.

W. E. Jakway, Pres.
H. S. Lambert, Vice-Pres.
H. A. Buckland, Secretary.
S. E. Smith, Treasurer.

KEARNEY, NEB.

Hall Safe & Lock Co., Cincinnati, Ohio.

GENTS: We send you to day by express one safe lock for inside door. Please send new lock and key for the same place.

Yours Resp.

W. E. JAKWAY CO.,
Per H. S. L.

465 DEF'TS' EXHIBIT No. 356, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit Work,
of every description.

HAMILTON, OHIO, *Aug.* 17, 1903.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: In keeping with your request of the 14th we herewith hand you letter received from the W. E. Jakway Co.

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
E. W. FRECHTLING.

DEF'TS' EXHIBIT No. 357, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Suc-essors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit Work,
of every description.

HAMILTON, OHIO, *May* 10, 1904.

Miller Lea & Co., Rogersville, Tenn.

GENTLEMEN: We have your letter of May 7th advising that you are shipping to us for repairs a combination lock from your safe. We note that your letter is addressed to the Hall Safe Co., of Cincinnati to which firm we are the successors, and we presume that the package was also addressed to Cincinnati.

If this is the case we would suggest that you start a tracer after the package with instructions that it come to us at this point. Upon its receipt we will give it our attention.

Yours truly,

HERRING-HALL-MARVIN SAFE CO.,
E. W. FRECHTLING.

W.
Ans. 5-16-1904. H.

466 DEF'TS' EXHIBIT No. 358, D. H. P., N. P.

After five days return to
The Julian-Sargent Co.,
General Insurance,
49½ N. High St., Columbus, O.

Columbus,
Ohio.
Aug. 19 2 ct. stamp
9:30 p. m.
1904.

The Hall's Safe Co.,
Cincinnati,
Ohio.

P. O. Box 846.

DEF'TS' EXHIBIT No. 359, D. H. P., N. P.

D. E. Julian. S. S. Sargent. W. D. Kail.

7097.

The Julian-Sargent Co.
(Incorporated)
Fire Insurance.
Room 1, 49½ N. High St., Columbus, Ohio.

AUGUST 19, 1904.

Mr. C. O. Hall, Vice President, Cincinnati, Ohio.

DEAR SIR: Under date of August 12th, we addressed a letter to The Hall Safe & Lock Company, as per copy enclosed. It appears that this letter was delivered to the Herring-Hall-Marvin Safe Company and they very kindly have favored us with their catalogue and some special photographs and prices. However, before concluding any contract we would be pleased to hear from you.

Yours very truly, D. E. JULIAN.

Ans'd 8/23.

DEF'TS' EXHIBIT No. 360, D. H. P., N. P.

D. E. Julian. S. S. Sargent. W. D. Kail.

7096.

The Julian-Sargent Co.
(Incorporated)
Fire Insurance.
Room 1, 49½ N. High St., Columbus, Ohio.

467 AUGUST 12, 1904.

The Hall Safe & Lock Company, Cincinnati, Ohio.

GENTLEMEN: You will recall selling the North Side Savings Bank Company a fire proof safe with burglar proof safe inside, and we

beg to advise that we are now constructing a building which will be in part used by the bank and which will contain a fire proof vault built in the building. We therefore will be in need of some vault fronts and doors, and inasmuch as we are about ready for this work we find we have neglected to secure the sizes of vault doors, or the size opening we would need in the vault. Will you therefore mail us a catalogue showing the sizes of vault doors, or if not too much trouble advise us what size opening we will need to leave to admit the vault doors, and should the vault door frames be built into the vault walls. Any information on this point will be appreciated.

I might also add that we are considering the advantage of exchanging the burglar proof inside safe for a larger size of the same style and make, and wish you would quote me the difference in price between the safe that we purchased from you and the larger size, as well as giving me the dimensions of the larger sized safe.

Yours truly, D. E. JULIAN.

Copy.

The Herring-Hall-Marvin Safe Co. must have known that this was intended for us, We built the North Side Savings Bank vault and we are sure they (The H. H. M. S. Co.) knew it was our work.

DEF'TS' EXHIBIT No. 361, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit work,
of every description.

468

Wrote B. & O. 10/6.
Sept. 15-04.
Vincente S. Gomez.,
Monterey,
N. L. Mex.

Stephens & Hughes,
McKinney, Tex. Sept. 15—

ST. LOUIS, MO., *Oct.* 5, 1904.

Hall Safe Co., Cincinnati, Ohio.

GENTLEMEN: Two of your small safes, handle Numbers 30481 and 30282 have been marred and otherwise damaged in transit, and the railroad company has requested us to refinish them, and to enable us to do this we will require one pair of hinges for the safe handle No. 30481. These hinges are to have no holes drilled through the straps as we can drill the holes to suit the holes in the frame of the safe. We will also require the combination of this safe.

We trust you will give our request prompt attention and send us a

pair of hinges upon receipt of this with your invoice, so that we can let the safes go through without any further delay.

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
M. J. F.

DEF'TS' EXHIBIT No. 362, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit work,
of every description.

ST. LOUIS, MO., *Oct.* 12, 1904.

Hall Safe Co., Cincinnati, Ohio.

GENTLEMEN: We were called upon by the M. K. & T. R. R. to repair 2 safes shipped by you to your agent at Denison, Texas,
469 and Mexico. The safes were in a wreck, and on the smallest one which was shipped to Stevens & Hughes, the hinges were broken, and we wrote you requesting you to kindly furnish us with a set of hinges so that we could put them on, and we have not heard from you up to date. Would you kindly send these hinges to us that we may repair the safe and send through in accordance with the M. K. & T. R. R. orders.

Kindly send them to us by express and if you feel disposed, collect or otherwise, and oblige,

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
E. F. HALL, *Mgr.*

DEF'TS' EXHIBIT No. 363, D. H. P., N. P.

Copy.

OCT. 6, 1904.

Mr. C. W. Tomlinson, D. F. A., B. & O. S. W. R. R., City.

DEAR SIR: On September 15th we shipped to Stephens & Hughes, McKinney, Texas, safe No. 30282 and to Vincente S. Gomez, Monterey, N. L., Mexico, safe number 30481. One of our competitors in St. Louis have advised us that these safes have been marred and damaged in transit and the railroad company have requested them to refinish them and they ask us to furnish the parts. Will you please advise us why these safes have been put in the hands of our competitors for repairs and why we have not been informed that the safes were damaged?

An early reply will oblige,

Yours very truly,

THE HALL'S SAFE CO.,
C. O. HALL. (Signed)

DEF'TS' EXHIBITS Nos. 364, 365, 366, 367, D. H. P., N. P.

Missouri, Kansas & Texas Railway Co.,
Freight Traffic Department,
707 Chestnut St.,
St. Louis, Mo.

OCT. 25, 1904.

W. B. Groseclose, General Freight Agent.
F. A. Leland, Assistant Gen. Freight Agent.
J. L. West, Assistant General Freight Agent.

In your reply please refer to File No. W R 2920.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: I desire to write you direct with reference to two safes shipped by you Sept. 19th, one safe consigned to shippers order notify Vincent S. Gomers, Monterey, Mexico, the other one consigned to shippers order notify Stephens & Hughes, McKinney, Texas which were in a wreck upon our line at Lewis, Mo. Sept. 23rd. the safes being slightly damaged.

I have seen your letter written to the B. & O. S. W. Ry., with reference to our erroneous handling of these safes, and desire to offer an apology to you for the manner in which they were handled. I beg to as-ure you that the transaction as to the repairs to these safes occurred through a misapprehension of the facts. When these safes were damaged at Lewis in this wreck, I wired our agent at that point to ascertain by whom they were shipped, and received information that they were shipped by the Hall Safe Co., Cincinnati, Ohio. He further stated that he thought your company had a representative here at St. Louis. I took up the telephone book, and found that there was a safe firm in this city going under the name "Herring-Hall-Marvin Safe Co." I telephoned these parties and asked them if they were a representative of the Hall Safe Co. of Cincinnati and received a reply in the affirmative. I then explained to them relative to the matter of the safes being damaged in a wreck upon our line, and asked them if they could repair them here at St. Louis, or if it would be necessary to have them returned to Cincinnati for the repairs, and was advised by party answering this 'phone message, that they could repair the safes here at St. Louis, and that if we would have the safes brought in, they would call for them, make necessary repairs, and render bill accordingly. I was very particular in 'phoning the Herring-Hall-Marvin Safe Co. to ascertain if they were a representative of your house at Cincinnati, and received a reply that they were without any equivocation or any attempt at evasion. I had no good grounds to believe that the information given me was not correct. I had the safes brought in and delivered to the Herring-Hall-Marvin Safe Co. for the repairs,
471 and my first intimation of the irregularity of the transaction was called to my notice by Mr. Edward Hart, Jr., of the B.

& O. S. W. Ry. attaching your letter of complaint. I immediately took matter up, calling on them this A. M. to ascertain why they misrepresented the facts in the case, but I was unable to locate the party that answered my telephone message. Mr. Hall was not at the store, and there did not seem to be anybody there that seemed to know anything about the telephone conversation. I met a gentleman by the name of Mr. Jacob H. Heitz, who informed me that he had worked for your folks in the past, and that he was superintending the repairs to these safes, but they had been unable to finish the repairs for the reason that they had been unable to get some of the necessary supplies. Mr. Heitz informed me that his company (Herring-Hall Marvin Safe Co.) had written you asking you to send them one set of hinges and the combination for the safe consigned to Mexico; the handle number was No. 30481. The writer saw the safes, and they are in very good shape; in fact they were not very badly damaged, and the repairs necessary were slight as I understand it. My idea in writing you this letter of explanation, is to explain fully our position in the matter, as we have been too long in the business to handle a matter in the manner that it has been handled if the facts had not been misrepresented. I do not mean to say that the Herring-Hall-Marvin Safe Co. misrepresented the facts intentionally, but they certainly led me to believe that they were a representative of your house at Cincinnati; otherwise I most assuredly would not have turned the safes over to them to be repaired. As the matter now stands, repairs are all complete with the exception of putting on this set of hinges. I understand from Mr. Heitz that you have a letter from this firm asking for this set of hinges, and the combination on this safe. Can you not consistently let them have this set of hinges and combination on this safe in order that the repairs can be completed, and safes forwarded on to destination without further delay? As I believe it would be to the interest of all concerned to handle in this manner.

I would be pleased to hear from you by return mail, stating whether you will comply with request of Herring-Hall-Marvin Safe Co. to furnish the set of hinges and the combination, and again desire to assure you as previously stated, that the erroneous handling of this matter was done through a misapprehension of the facts.

Yours truly, J. L. WEST.

472 DEF'TS' EXHIBIT No. 368, D. H. P., N. P.

John Parent & Company,
Buyers and shippers of
Grain, seed, flour, feed, hay, etc.
Elevators at Union City, O. and Hillgrove, O.
9198.

UNION CITY, IND., *Oct.* 13, '04.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: Your letter of 12th inst. to hand and would say in reply that we sent this door to you some time since and a few days

later received a communication from Herring-Hall-Marvin Safe Co. at Hamilton, O. answering our letter to you of same date saying that on arrival of door they would at once notify us to cost of putting same in condition same as new. We have heard nothing more from them and now comes a letter from you asking what to do with the door.

We want this door repaired at once and if you can do the work notify us, at once, the cost of the repair and we will instruct you what to do. We need this door very badly and hope to hear from you very soon in regard to it.

Yours truly,

JOHN PARENT & CO.,
Per GLUNT.

Wrote Oct. 17-04.
Price $15.00.

DEF'TS' EXHIBIT No. 369, D. H. P., N. P.

Established 1819.

Barrett, Nephews & Co.,
Old Staten Island Dyeing Establishment,
334 Canal Street,
New York.

New York, N. Y.
St. S. (2ct. Stamp)
Oct. 6,
7:30 p. M.
1904.

The Hall Safe Co.,
Broadway & Walker Sts.,
City.

473 DEF'TS' EXHIBIT No. 370, D. H. P., N. P.

Officers.

Henry B. Palmer, President. Chas. E. Heal, Secretary.

Established 1819.

Barrett, Nephews & Co.

Old Staten Island Dyeing Establishment,

334 Canal Street.

Telephone: 2365 Franklin.
2364 "

Offices.

334 Canal Street.....New York.
20 John Street..... "
870 Broadway ..... "
2465 Broadway ..... "

2647 Broadway ..... New York.
2709 Broadway ..... "
576 Fifth Avenue ..... "
610 Sixth Avenue ..... "
844 Sixth Avenue ..... "
19 West Forty-second St ..... "
304 Columbus Avenue ..... "
336 Columbus Avenue ..... "
556 Columbus Avenue ..... "
912 Columbus Avenue ..... "
207 West One hundred-sixteenth St ..... "
2320 Eighth Avenue ..... "
2 West 125th Street ..... "
391 Amsterdam Avenue ..... "
1740 Amsterdam Avenue ..... "
585 Madison Avenue ..... "
708 Madison Avenue ..... "
992 Madison Avenue ..... "
1064 Madison Avenue ..... "
468 Fulton Street ..... Brooklyn.
482 Fulton Street ..... "
1177 Fulton Street ..... "
168 Pierrepont Street ..... "
1225 Chestnut Street ..... Philadelphia.

474

213 N. Charles Street ..... Baltimore.
19 West Street ..... Boston, Mass.
453 Broadway So ..... Boston.
393 Main Street ..... Worcester.
West New Brighton, S. I.

New York, Oct. 6, 1904.
Herring-Hall-Marvin Safe Co.,
Rec'd Oct. 7, 1904.
File No. 5383.

To repair.

The Hall Safe Co., Broadway & Walker Sts., City.

GENTLEMEN: The safe which you sold us and which we are using at 2320 Eighth Avenue, is out of order and we have considerable difficulty in opening it. Will you be good enough to send a man up to the office to see what the trouble is and have it remedied?

Very truly yours,

BARRETT, NEPHEWS & CO.,
Old Staten Island Dyeing Establishment,
By CHAS. E. HEAL, *Secretary.*

Attended to Oct. 7, 1904.
E. C. HALL, *President.*

DEF'TS' EXHIBIT No. 371, D. H. P., N. P.

James McCaskill,

Dealer in

General Merchandise, Live Stock, Lumber and Produce.

Try our
Celebrated
Brands of Shoes.

A first-class roller mill operated, and all grades of flour made.

SUMMERVILLE, Mo., *Oct.* 22, 1904.

St. Louis Safe & Desk Co., St. Louis, Mo.

GENTLEMEN: In answer to your letter of 19 inst. would
475 say I have a Hall Safe and sent the doors to Hall Safe Co. And if you are their representative of Hall Safe Co. you should have rec'd the doors and you may present this letter to Herring-Hall-Marvin Safe Co. for this.

Truly yours, JAMES McCASKILL.

DEF'TS' EXHIBIT No. 372, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit work,
of every description.

ST. LOUIS, Mo., *Oct.* 17, 1904.

James McCaskill, Esq., Summerville, Mo.

DEAR SIR: We are in receipt of the doors sent by you and have examined them carefully and it requires a great deal of work, new locks and other parts to repair them, and we will agree to put them in perfect shape with new lock and all for $35.00.

This is extremely low and kindly let us hear from you as to what disposition you wish made whether we shall go ahead with the work or what to do. We have paid all freight and hauling on same.

Hoping to hear from you, we are,

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
E. F. HALL, *M'g'r.*

It appears to me the above charges is too high.

Truly yours, JAMES McCASKILL.

References Ely & Walker Dry Goods Co.,
Hargadine-McKittrick,
Brown Shoe Co.,
Roberts, Johnson & Rand,
Scudder Gale Gro. Co.
or any other wholesale house in your city.

476 DEF'TS' EXHIBIT No. 373, D. H. P., N. P.

St. Louis Safe & Desk Co.,

Desks & Chairs.

Office and Salesroom
421 North Fourth Street.
John T. Lynn.
Chris. Claudy,
Lock expert.
Phones: Kinloch B. 865,
Bell, Main 2469.

Fire & Burglar Proof Safes,
Time Locks and
Vault Doors

Factory & Ware House
524 N. Main St.

Telephone.
Bell M. 2948 M.

Agents for
The celebrated Hall's Safes & Hall Patent
Screw door bank safe.

ST. LOUIS, MO., *Oct.* 19, 1904.

Mr. James McCaskell, Summerville, Mo.

DEAR SIR: On October 3rd we received notice from the Frisco, that they held two safe doors for the Hall's Safe Co. We have spent considerable time looking up this shipment and find this afternoon the shipment was delivered to a man by the name of Phil Schunck. We suppose he is a driver for the Herring-Hall-Marvin Co. Now we would like to know by return mail if it was your intention in shipping the doors to be repaired to the Hall's Safe Co., or was it your intention to ship to the Herring-Hall-Marvin Safe Co. We are the agents or representatives of the Hall's Safe Co., of Cincinnati. This has occurred on more than one occasion that the Herring-Hall-Marvin got hold of that that belongs to the Hall's Safe Co.

Please favor us by a prompt reply and greatly oblige,

Yours truly,

ST. LOUIS SAFE & DESK CO.
JNO. T. LYNN, *Prop.*

St. Louis Safe & Desk Co.,
Agents for
Hall's Safes.

477 DEF'TS' EXHIBIT No. 374, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit work,
of every description.

HAMILTON, OHIO, 11/17/04.

Mr. S. A. Tomlinson, Cashier, Bank of Commerce.

DEAR SIR: Yours of the 14th addressed to our predecessors is in our hands. Replying thereto we will state that we do not keep impression of the thousands of keys we manufacture. It will be necessary for you to remove the lock and send it to us or to send us one of the keys of which your desire duplicates. We are,

Yours very truly,

HERRING-HALL-MARVIN CO.
E. K. POOR, *Manager.*

EKP—N.

DEF'TS' EXHIBIT No. 375, D. H. P., N. P.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works,
Manufacturers.
Standard Safes.
Bank & Safe Deposit work,
of every description.

HAMILTON, OHIO, *Dec.* 6, 1904.

Bank of Gulfport, Gulfport, Miss.

GENTLEMEN: We are in receipt of your favor of November 30th enclosing sample key. We find that the key is one which was made by the Hall's Safe Co., of Cincinnati, and we are therefore referring the same to them for attention.

Yours truly,

HERRING-HALL-MARVIN SAFE CO.
E. W. FRECHTLING.

W.

478 DEF'TS' EXHIBIT No. 376, D. H. P., N. P.

Bank of Commerce.

P. H. M. Tippin, President. J. R. Kelly, Vice-President. S. A. Tomlinson, Cashier.

GULFPORT, MISS., *Nov.* 30, 1904.

Herring-Hall-Marvin Safe Co., Hamilton, Ohio.

GENTLEMEN: Please see your letter of Nov. 17. We herewith enclose you the key in question and will thank you to have six duplicates made returning us the seven keys and statement of cost that we may remit for same by return mail.

We will thank you to get these keys to us as early as possible as we need them very badly.

Yours respectfully,

S. A. TOMLINSON, *Cashier.*

J.
Ans. 12-7-1904.

DEF'TS' EXHIBIT No. 377, D. H. P., N. P.

11302.

Herring-Hall-Marvin Safe Co.,
Successors to Hall Safe & Lock Co.,
and operating Hall Safe & Lock Works.
Standard Safes.
Bank and Safe Deposit work,
of every description.

HAMILTON, OHIO, *Dec.* 6, 1904.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: We are herewith handing you a letter received from the Bank of Gulfport, Miss., and also the sample key of which they wish 6 duplicates. We find that the key is of your make and are therefore forwarding both sample key and letter to you for attention.

Yours very truly,

HERRING-HALL-MARVIN SAFE CO.
E. W. FRECHTLING.

W.

The name of bank is Bank of Commerce,
Gulfport, Miss.

479 DEF'TS' EXHIBIT No. 378, D. H. P., N. P.

S. S. Miller, President. H. I. Crawford, Secretary.
E. O. Brown, Vice-President. M. H. Raymond, Treas.

Directors.

S. S. Miller,
Arthur Taylor,
E. O. Brown,
F. E. Parker,
D. J. Cole.

Rhinelander

Independent Telephone | Mutual Telephone Company Incorporated 1901. | Independent. Telephone.

Howard I. Crawford, Manager.

Return to
W. H. H.
Ansd. 12/12.

RHINELANDER, WIS., *Dec.* 10, 1904.

The Hall Safe Co., Cincinnati, Ohio.

GENTLEMEN: Some time ago I addressed a letter intended for you to The Hall Safe & Lock Co. It was answered by The Herring-Hall-Marvin Co. In it I asked quotations on Standard Fire proof safes of an inside dimension not less than 20 in. high, 15 in. wide and 13 in. deep. In your quotation please give both inside and outside dimensions and price F. O. B. Rhinelander, Wis.

Yours truly, R. W. CRAWFORD, *Sec.*

z

DEF'TS' EXHIBIT No. 379, D. H. P., N. P.

Postal-Telegraph-Cable Company
John W. Mackay, President,
J. O. Stevens, Sec'y, Wm. H. Baker, V. P. & G. M.
in connection with-The Commercial Cable Co.
Albert Beck, Sec'y, Geo. G. Ward, V. P. & G. M.

480 *Telegram.*

The Postal Telegraph-Cable Company transmits and deliver- this message subject to the terms and conditions printed on the back of this blank.

Counter Number. Time Filed. Check.
M.

Send the following message, without repeating, subject to the terms and conditions printed on the back hereof, which are hereby agreed to.

Copy.

13 C HQ N 11 Paid
New York Jan. 31/05.
Hall's Safe Co.
Produce specification paragraph fifty three fourths layer should be one inch.
11K J. M. MOSSMAN.

The postal Company's System reaches all important points in the United States and British America, and via. Commercial Cables, all the world.

DEF'TS' EXHIBIT No. 380, D. H. P., N. P.

The Hall's Safe Company.

E. C. Hall, President, maker of safes since 1863.
W. H. Hall, Vice-president, and Treas., maker of safes since 1874.
S. F. Kemper, Secretary.

All Safes made
by
Hall's Safe Co.
Made in U. S. A.
Have this
Trade Mark.

The best equipped Safe and Bank Vault Factory in the World.

481 SPRING GROVE AVENUE,
CINCINNATI, O., U. S. A., *Feb.* 4-05.

Cable address: "Hallsafe"
P. O. Box 846.

Copy.

Mr. J. M. Mossman, No. 72 Maiden Lane, New York City.

DEAR SIR: On January 31st, we received a telegram from you as follows: "Produce specifications paragraph 53, fourth layer should be 1." We do not understand your telegram as we have received no specifications from you and do not know to what you refer. If you have any specifications that you would like us to bid on we would be pleased to receive them.

Yours very truly,

THE HALL'S SAFE CO.
C. O. H.

DEF'TS' EXHIBITS No-. 381 AND 382, D. H. P., N. P.

18772-18773.

J. M. Mossman,
Formerly
Cady & Mossman
Time Lock department,
Telephone, 1423 John.
Nos. 72 & 74 Maiden Lane,
and
Nos. 5 & 7 Liberty Street.
Designer and Superintendent of
Burglar proof Vault and Safe Construction.

NEW YORK, *2nd February*, 1905.

Re-Produce Exchange Safe Deposit & Storage Co.

The Hall's Safe Co., Cincinnati, Ohio.

GENTLEMEN: We sent you on Jan. 28th an invitation to estimate on proposed vault work for the above company, enclosing a copy of the specification covering this work, and sending under
482 separate cover a set of blue prints. Both the specification and blue-prints being numbered 6.

By inadvertance, we addressed you as follows: "The Hall's Safe & Lock Co." with the unfortunate result, that the letter and the prints were forwarded by the postmaster at Cincinnati to the Herring-Hall-Marvin Co. at Hamilton, which company has returned them to us.

We are returning to you enclosed, the specification, and sending by express prepaid, the prints.

Bids must be in the hands of Mr. Wm. F. Pearson, Vice-president, The Produce Exchange Safe Deposit & Storage Co., by noon, Monday, Feb. 6th, and will be necessary under the circumstances for you to send your estimate by telegram.

We sincerely regret the short time now afforded you for making your computations, but trust that you will be able to have your figures in at the time named.

Very truly yours,

J. M. MOSSMAN.
F. S. H.

Ans. 2-4-1905, W. H. H.

DEF'TS' EXHIBIT- 383 AND 384, D. H. P., N. P.

The Hall's Safe Company.

F. C. Hall, President, maker of safes since 1868.
W. H. Hall, Vice-President and Treas., maker of safes since 1874.
S. F. Kemper, Secretary.

All safes made
by
Hall's Safe Co.,
Made in U. S. A.
Have this
Trade Mark.

The best equipped Safe and Bank Vault Factory in the World.

SPRING GROVE AVENUE,
CINCINNATI, O., U. S. A., *Feb. 4th*, 1905.

Cable address: "Hallsafe"
P. O. Box 846.

483 Copy.

Mr. J. M. Mossman, 72 Maiden Lane, New York City.

DEAR SIR: We have yours of Feb. 2nd enclosing specifications for vault work for the Produce Exchange Safe Deposit & Storage Co. We are extremely sorry to have no opportunity of bidding on this work, as we notice bids are to be in the hands of Mr. Wm. F. Pearson, Vice-president of the above bank by noon February 6th. The drawings have not been received up to this writing (noon, Feb. 4th), consequently it will be impossible for our bid to be on hand even should the drawings come in during the day.

We notice your remarks that "by inadvertance" you addressed letter and drawings intended for us to "The Hall's Safe & Lock Co., Cincinnati, Ohio, and that our postmaster at Cincinnati, O., forwarded them to the Herring-Hall-Marvin Safe Co. at Hamilton, O., and that the last named company returned them to you instead of forwarding them to us—they surely knew they were intended for us from the address, our name has "The" before it—the old Hall's Safe & Lock Co.'s name had no "The," besides they knew that you were fully aware of our existence under our corporate name, for the reason that we have received numerous communications from you since our incorporation—further, that you are personally acquainted with the officers of this company. It looks to us that this is simply done on the part of our competitors to shut us out of bidding on this work.

We want to again express our regrets for our inability to bid on your specifications for this bank.

Yours respectfully,

HALL'S SAFE CO.,
By W. H. HALL.

DEF'TS' EXHIBIT No. 385, D. H. P., N. P.

J. M. Mossman,
Formerly
Cady & Mossman
Time Lock Department,
Telephone, 1423 John.
Nos. 72 & 74 Maiden Lane,
and
Nos. 5 & 7 Liberty Street.
Designer and Superintendent of
Burglar Proof Vault and Safe Construction.

484 (L) NEW YORK, *Feb.* 7, '05.

The Halls Safe Co., Cincinnati, Ohio.

GENTLEMEN:

In re Produce Exchange Safe Deposit & Storage Co., New York.

Yours of the 2nd and 4th at hand. We regret exceedingly that an error was made in this office in mis-directing our correspondence but it is self-evident that the greatest care must be taken in view of the experience that we have had in the present instance.

I would ask if you will kindly return the prints and specifications, and oblige,

Yours truly, J. M. MOSSMAN.

DEF'TS' EXHIBIT No. 386, D. H. P., N. P.

Fred'k H. Mason,
President.

Howell W. Peel,
Sec'y and Treas.

Holley, Mason, Marks & Co.,
Jobbers of Hardware.

L. SPOKANE, WASH., *June* 1, 1903.

Connell Hardware Co., Connell, Wash.

GENTLEMEN: In reply to your favor of the 28th ult. regarding the safe which we have shipped you at Connell, will state that we know this to be the original Hall's Safe made by the Hall's Safe & Lock Co., of Cincinnati, one of the largest manufacturers of safes in the world. We are not selling anything through this country that would jeopardize our general business standing and you can readily understand that we could not afford to do so. However, if the goods do not suit you, we will give instructions to the agent at that point as to the disposal of the safe.

Regarding the remarks by our Mr. Reynolds, we know nothing of the merits or demerits of that particular instance. However,

they do not affect the quality of the goods which we are
485 delivering and you do not have his guarantee but ours, and certainly this ought to be something. We thank you for the order and for taking the matter up with us as you have. We ask you- further consideration in the matter and hope to have a prompt and favorable reply.

Yours truly,

HOLLEY, MASON, MARKS & CO.,
H. O. ADAMS, *Cashier.*

DEF'TS' EXHIBIT No. 387, D. H. P., N. P.

Fred'k H. Mason, President. — Howell W. Peel, Sec'y and Treas.

Holley, Mason, Marks & Co.
Jobbers of Hardware.

L. SPOKANE, WASH., *June* 3, 1903.

Halls Safe Co., Cincinnati, Ohio.

GENTLEMEN: In reply to your favor of May 28th will state that we have carefully examined our letter copies and find no record of using the expression you refer to. Although we are the agents in this territory for the Herring-Hall-Marvin Safe Co., we would not knowingly permit any of our salesmen to decry the goods of a competitor as it is not the policy of our house to do business along those lines.

Yours truly,

HOLLEY, MASON, MARKS & CO.,
By H. O. ADAMS.

DEF'TS' EXHIBIT No. 388, D. H. P., N. P.

Fred'k H. Mason, President. — Howell W. Peel, Sec'y and Treas.

Holley, Mason, Marks & Co.
Jobbers of Hardware.

SPOKANE, WASH., *April* 11, 1903.

Messrs. Cusick & Bruce, Waterville, Wash.

486 GENTLEMEN: We have recently been appointed the sole selling agents for the Herring-Hall-Marvin Safe Co., successors to the original Hall Safe & Lock Co., of Cincinnati, the largest and oldest manufacturers of fire-proof safes in the world.

We have lately sold about one-third of a carload of these safes in Wenatchee and are now endeavoring to get enough more orders

to complete filling the car. Will you help us out? We will make the prices and terms right.

As the freight rate to your point is high we believe it would be to your interest, if you are contemplating buying a safe in the near future, to take advantage of the carload rate and place your order for a first class safe, as the freight rate would be less than it would be on a single worthless safe. Please bear in mind that there is an imitation Hall's Safe Co.

Our Mr. Reynolds will be in Wenatchee and vicinity next week, and we would be pleased to have you request him to call on you. Any favors shown him will be fully appreciated by,

Yours truly, HOLLEY, MASON, MARKS & CO.

Return this to Harris.

DEF'TS' EXHIBIT No. 389, D. H. P., N. P.

Edward C. Hall, President. Wm. Harry Hall,
S. Frederick Kemper, Sec'y. V. Pres. & Treas.

The Hall's Safe Co.

Principal Office & Factory. P. O. Box, 846.

The best equipped Safe and Bank Vault Factory in the World.

Cable address, "Hallsafe."

SPRING GROVE AVE., CINCINNATI, O., *Mar.* 28, '03.

Messrs. Holley, Mason, Marks & Co., Spokane, Washington.

GENTLEMEN: We have a circular letter, sent out over your signature, dated April 11th, 1903, addressed to a certain firm at
487 Waterville, Wash. wherein you write—"Please bear in mind that there is an imitation Hall's Safe Co." Now, gentlemen, we are not an imitation but the Hall's Safe Company—see United States Court records. We are incorporated under Ohio laws.

Did the mere fact that you were selling another make of safes justify this libel or was some other safe manufacturer responsible for your sending such stuff through the United States mails?

An early reply in stamped return envelope herewith will greatly oblige,

Yours respectfully,

THE HALL'S SAFE CO.,
By —— ——, *Treasurer.*

DEF'TS' EXHIBIT No. 391, D. A. B., D. H. P., N. P.

Post Office,

Executive Division.

CINCINNATI, OHIO., *October* 14, 1904.

W. H. Hall, Esq., Vice-president, The Hall's Safe Co., P. O. Box, 846., Cincinnati, Ohio.

SIR: Replying to your several favors under date of September 22nd and September 29th, with reference to the source and date of an order said to be on file in this office to the effect that mail for the Hall Safe Co., Cincinnati, must be forwarded to Hamilton, Ohio, I find that the Hall Safe & Lock Company did, on the 12th day of May, 1892, sell Jennings S. Cox of the City, County and State of New York, and Anson P. G. Sieger of the City of Brooklyn, County of Kings, State of New York, its manufacturing plant, machinery, tools, patterns, buildings, fixtures, leasehold interests, stocks of safes and other merchandise, materials manufactured, unmanufactured, and in course of manufacture, horses, wagons, vehicles, cartage plant and rigging, bills receivable, book accounts, moneys, debts, dues, books of account and other books, papers, office furniture, and trade marks, patent rights, trade rights, good will and all office property and assets of every name and nature, wherever situated, and that these rights were afterwards transferred to the Herring-
488 Hall-Marvin Safe Company of Hamilton, Ohio. I do not find in the files of this office the papers covering the orders concerning the disposition of mail which was issued at the time this sale was made.

The Superintendent of the Delivery Division states that subsequent to this sale, the Hall Safe Company was organized, in consequence of which there was some confusion as to the disposition of the mail and it was held that, in the sale above referred to, the right to receive mail addressed to the Hall Safe & Lock Company was included: This construction has been followed from that time up to the present. As there seems to be some question of law relative to the disposition of such mail, it seems to me that recourse should be had to the court in order to determine the rights of the various parties interested therein.

It is not the desire or purpose of this office to interfere with, or obstruct, the rights of the different corporations claiming this mail, but our aim and purpose is, if possible, to secure proper delivery and to that end the mail, as stated by you, has been sent to the Herring-Hall-Marvin Safe Company, Hamilton, Ohio, and from your own statement, it is the practice of said company where letters, etc. are intended for you to forward them to you. Having seen copy of bill of sale and with some knowledge of changes covering the period of delivery, I cannot change the method of delivery without

instructions from the department, an order of court, or mutual agreement of the claimants.

Very respectfully,

ELIAS R. MONFORT, *Postmaster.*

DEF'TS' EXHIBIT No. 392, D. A. B., D. H. P., N. P.

Copy.

CINCINNATI, O., *Sept.* 22-'04.

Mr. Elias R. Monfort, Postmaster, Cincinnati, Ohio.

DEAR SIR: On May 19th, 1901, you wrote us under the caption "Respectively referred to The Hall's Safe Co., Spring Grove Ave., City." "Calling attention to the accompany- statement from 489 Superintendent of the City Delivery Division," which statement was as follows:

"Respectfully referred to Postmaster, Cincinnati, O." "There is nothing for me to settle in this case. Mail for the Hall's Safe & Lock Co. must be forwarded to Hamilton, Ohio, in accordance with orders we have on file. The Hall's Safe Co. has no claim on this mail whatever, as they sold their entire interest in the concern. They had no right to open the special delivery letter, to which this correspondence refers, for they know as well as we do, that they have no claim to mail addressed to the Hall's Safe & Lock Co.

(Signed) C. B. McGREW,
Superintendent."

Your Superintendent of Delivery Department in this case has assumed the prerogative of the United States Court in passing upon our rights, in fact he has even gone far beyond what any court would have dared; he has decided the case against us without so much as allowing us to be heard.

Now under the instructions on file in your office (mentioned by Superintendent of Delivery Department in his statement), you have been sending mail addressed to Hall's Safe & Lock Co., Cincinnati, Ohio to The Herring-Hall-Marvin Safe Co., Hamilton, Ohio. These names are very dissimilar and mail addressed to Cincinnati, Ohio, has been diverted by your office to Hamilton, Ohio, a place where the writer (in most cases) had no intention of sending it. Now we have hundreds of letters and envelopes that have been returned to us by the Herring-Hall-Marvin Co., which letters in some instances contained remittances, in others, very important private business. Of late, the company at Hamilton has been holding our mail (which had been diverted by your office) from four days to a week before sending it to us, thereby causing us great annoyance and loss.

Our object in writing you at this length is to find out the name of the official who gave the instructions mentioned in Mr. McGrew's statement; also the date of such order.

Trusting you will see fit to give us this information at your earliest convenience, we are,

Yours very truly,

THE HALL'S SAFE CO.,

(Signed) W. H. HALL,

Vice-president.

490 DEF'TS' EXHIBIT No. 393, D. H. P., N. P., D. A. B.

Copy.

CINCINNATI, O., *Sept.* 29-'04.

Mr. Elias R. Monfort, Postmaster, City.

DEAR SIR: On Sept. 22nd we wrote to you (but have received no reply) in reference to the source and date of an order, said to be, on file in your office. Said order is to the effect that "Mail for the Hall's Safe & Lock Co., Cincinnati, O. must be forwarded to Hamilton, Ohio."

We will thank you to give us this information as it is of very great importance to us.

Yours respectfully,

THE HALL'S SAFE CO.,

By W. H. HALL, (Signed)

Vice-president.

DEF'TS' EXHIBIT No. 394, D. A. B., D. H. P., N. P.

Contract of E. C. Hall with H. H. M. Co.

Copy.

Know all men by these presents, that I, Edward C. Hall, of the City of Cincinnati, and State of Ohio, for and in consideration of the sum of one dollar by Herring-Hall-Marvin Company, a corporation organized under the laws of the State of New Jersey to me in hand paid, the receipt whereof is hereby acknowledged and as a part of the consideration to induce said Herring-Hall-Marvin Company to accept and receive the conveyance to it of the property of Hall's Safe & Lock Company, a corporation organized under the laws of the State of Ohio, have agreed and do hereby covenant, promise and agree to and with the said Herring-Hall-Marvin Company, that I, the said E. C. Hall will hold the office of president of the said Herring-Hall-Marvin Company, to which I have been elected, until said May 2, 1897, and I will devote all my time and give my best endeavors to promoting the interests and business of the said Herring-Hall-Marvin Company in such office and otherwise, and that I will

491 accept in full payment and satisfaction of and for my services to be rendered as aforesaid a salary of seven thousand dollars per annum to be payable monthly, for the first year, and at

such sum not less than $7,000 as the board of directors may fix, in each year thereafter.

And in consideration as aforesaid, I, the said Edward C. Hall do hereby covenant, promise and agree that I will not, so long as the Herring-Hall-Marvin Company may desire to retain my services as above, engage, either in the State of Ohio, or in the State of New Jersey, or in any of the states east of the Mississippi River, in the business of manufacturing, selling, buying or dealing in fire or burglar proof Vaults and safes, or in any business or occupation such as the said corporation known as the Hall's Safe & Lock Company has heretofore been engaged in, or such as the Herring-Hall-Marvin Company is authorized or empowered to engage in, or in any other business which will or may compete or interfere in any manner with the business of the said Herring-Hall-Marvin Company.

In witness whereof I have hereunto set my hand and seal the 12th day of May, 1892.

(Signed) EDWARD C. HALL.

Sealed and delivered: In the presence of:
LOUIS O. VAN DOREN.

DEF'TS' EXHIBIT No. 395, D. A. B., D. H. P., N. P.

Herring Hall Marvin Co. Treasurer's Office, 11 Wall Street. Room 25.

NEW YORK, *June 16th*, 1896.

E. C. Hall, Hall's Safe & Lock Works, No. 225 West Pearl Street, Cincinnati, Ohio.

DEAR SIR: At a meeting of the Executive Committee of the Herring-Hall-Marvin Company held to-day, the committee had under consideration the subject of the compensation of the salaried officers and managers of the company, including yourself. Your compensation was fixed by the board of directors in June last at the rate of $6,000 per annum for the year then ensuing. The committee would like an expression from you as to the terms
492 on which you are willing to continue with the company for the coming year; and the committee suggest that temporarily, and until the subject can be discussed between the committee and yourself, your compensation be continued at the same rate as during last year.

The committee instruct me to ask you to inform me by return mail whether this suggestion is agreeable to you, and favor me also with an expression of your views as to the terms of an engagement to be made for the coming year.

Yours truly, JOHN A. SHIBLEY, *Secretary*.

1908
1898

Endorsed in pencil: The contract between company and me stipulates the compensation. I am to receive in case you desire my services.

Endorsed in pen: Answer sent, E. C. H.

CINCINNATI, *June* 18/96.

Executive Committee, H. H. M. Co., N. Y.:

Replying to your favor of the 16th through J. A. Shibley, Secretary would say the contract between the company and myself stipulates the compensation I am to receive.

Respectfully,

E. C. HALL.

DEF'TS' EXHIBIT No. 396, D. A. B., D. H. P., N. P.

Herring Hall Marvin Co. Treasurer's Office, 11 Wall Street. Room 25.

NEW YORK, *June 26th*, 1896.

E. C. Hall, Esq., Hall's Safe & Lock Works, Cincinnati, Ohio.

DEAR SIR: The Executive Committee of the Herring-Hall-
493 Marvin Company direct me to say, in reply to your letter of June 18, 1896, that the committee would be pleased to have you state what contract you refer to in your letter, as the arrangement made with you in June last was by its terms and with your assent limited to the then coming year, which now expires. The committee direct me to notify you that while it is agreeable to them that you should temporarily continue at the same rate of compensation as during the past year, which is at the rate of $6,000 per annum, the company does not recognize that it is under any engagement to you for a longer time than until the subject can be discussed between yourself and the executive committee, when we trust some arrangement may be arrived at.

Respectfully yours,

JOHN A. SHIBLEY, *Secretary*.

DEF'TS' EXHIBIT No. 397, D. A. B., D. H. P., N. P.

Herring Hall Marvin Co. Treasurer's Office, 11 Wall Street. Room 25.

NEW YORK, *June 27th*, 1896.

E. C. Hall, Esq., Hall's Safe & Lock Works, No. 225 West Pearl Street, Cincinnati, Ohio.

DEAR SIR: As the annual meeting of the stockholders will be held at the office of the company in Jersey City, New Jersey, on the 8th day of July, 1896, at 2 o'clock p. m., a meeting of the board of directors will be held on the same date, immediately following the meeting of the stockholders, the meeting being in accordance with the by-laws of the company. Such business will be transacted at this meeting, as may properly come before the board.

Respectfully yours,

JOHN A. SHIBLEY, *Secretary*.

DEF'TS' EXHIBIT No. 398, D. A. B., D. H. P., N. P.

Hall's Safe & Lock Works.

Principal Office and factory Cincinnati.

Edward C. Hall and Richard T. Pullen, Managers.

494 Salesrooms.

New York City, Portland, Me., Boston, Philadelphia, Cleveland, Chicago, Louisville, St. Louis, Kansas City, Omaha, Minneapolis, St. Paul, New Orleans, San Francisco, Los Angeles, San Diego, Portland, Ore., Nashville, Tenn., Milwaukee, Wis., Evansville, Ind., Richmond, Va., and Atlanta, Ga.

CINCINNATI, *June 29th*, 1896.

Executive Committee, Herring, Hall, Marvin Co., New York City.

GENTS: Answering your favor 26th inst. the contract I referred to in my letter June 18th, 1896. Is the contract of May 12th, 1892, which you have in your possession, by the terms of which the company is to pay me not less than $7,000.00 per annum so long as it retains my services. I made a concession on the matter of salary for one year only at the special request of the then board of directors. Circumstances having altered since then, and I am not willing to make such concession for the year to come nor am I willing to remain longer in uncertainty as to the time I am to work for the company, I must ask you either to pay me what my contract calls for while I am retained or to give me a release from all obligations under that contract and accept my resignation to take effect August 1st, 1896.

E. C. HALL.

DEF'TS' EXHIBIT No. 405, D. A. B., D. H. P., N. P.

The Sun.

Baltimore, Tuesday Morning, March 1, 1904.

The only Office of Hall's Safe and Lock Company, of Cincinnati, Ohio, is located at Hoen Building, Lexington and North Sts.

Make no mistakes.

Telephones.

Courtland 970. Mt. Vernon 2506.

495 And afterwards, to-wit: on the 17th day of July, A. D. 1905, the following Petition for Appeal was filed in the clerk's office of the court aforesaid, which said Petition for Appeal is clothed in the words and figures, following, to-wit:

Petition for Appeal.

Circuit Court of the United States, Southern District of Ohio, Western Division.

In Equity. No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL.

The above named defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, and the cross-petitioner, The Hall's Safe Company, conceiving themselves aggrieved by the decree made and entered on the 6th day of July in the above entitled cause, do hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Sixth Circuit, for the reasons specified in the assignment of errors, which is filed herewith, and they pray that this appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Sixth Circuit.

W. C. COCHRAN AND
JUDSON HARMON,
Attorneys for Defendants and the Cross-petitioner.

And now, to-wit, on July 14th, 1905, it is ordered that the appeal be allowed as prayed for.

C. D. CLARK,
District Judge.

And afterwards, to-wit, but on same day as aforesaid, the following Assignment of Errors was filed in the clerk's office of the court aforesaid, which said Assignment of Errors is clothed in the words and figures, following, to-wit:

496 *Assignment of Errors.*

Circuit Court of the United States, Southern District of Ohio, Western Division.

In Equity. No. 5893.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL.

Assignment of Errors.

And come the defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, and the cross-complainant, The Hall's Safe Company, by Judson Harmon and William C. Cochran, their solicitors, and say that the interlocutory decree in said cause, made and entered on the sixth day of July, A. D. 1905, is erroneous and against the just rights of said defendants and said cross-complainant in the following particulars, to-wit:

First. The court erred in finding that plaintiff is the owner of the trade name of "Hall's Safe & Lock Company" and is entitled to the exclusive use and enjoyment thereof.

Second. The court erred in finding that plaintiff is entitled to the relief prayed for in its bill.

Third. The court erred in not finding that plaintiff had been advertising and holding itself out to the public as "Hall's Safe & Lock Company" and falsely represented to the public, by advertising, the use of deceptive signs and otherwise, that "Hall's Safe & Lock Company" is still in existence and that such false representations and deceptive practices are a bar to granting it equitable relief, irrespective of the acts of defendants.

Fourth. The court erred in enjoining the defendants from carrying on the safe or vault business in the same name of The Hall's Safe Company, as has been done and is now done, and from marking their product in any manner the name "The Hall's Safe Company."

Fifth. The court erred in enjoining the defendants from carrying on their business in any name similar to that of "Hall's Safe & Lock Company" and from marking their safes with any name so similar as to mislead the trade or cause mistake.

Sixth. The court erred in enjoining the defendants from advertising or in any manner designating their product as "Hall's
497 Safes" or vaults, and from representing in any manner that the safes which they manufacture are "Hall's Safes."

Seventh. The court erred in finding that defendants have heretofore or do now represent in any manner that they are the Hall's Safe & Lock Company, or its successors, or that they are carrying on the business established by Joseph L. Hall.

Eighth. The court erred in enjoining the defendants from interfering in any manner with the alleged exclusive right of Herring-Hall-Marvin Safe Company, its successors and assigns, to use the trade name of "Hall's Safe & Lock Company."

Ninth. The court erred in referring the cases to Benj. R. Cowen to ascertain and report the damages to which plaintiff is entitled and the profits for which the defendants are liable, there being no evidence whatever that plaintiff has been damaged by any act of defendants or that defendants have derived any profit from any acts complained of.

Tenth. The court erred in directing an accounting for damages, or profits, for anything done by defendants prior to organization of plaintiff.

Eleventh. The court erred in adjudging the costs against the defendants.

Twelfth. The court erred in dismissing the cross-bill of the defendant, The Hall's Safe Company.

Thirteenth. The court erred in refusing to enjoin the plaintiff from doing business as Hall's Safe & Lock Company and from advertising and holding itself out to the public as Hall's Safe & Lock Company.

Fourteenth. The court erred in refusing to enjoin the plaintiff from advertising and otherwise representing to the public that Hall's Safe & Lock Company is still in existence and engaged in the busi-

ness of manufacturing and selling safes and vaults and other goods formerly manufactured by Hall's Safe & Lock Company.

Wherefore defendants and the cross-petitioner pray that said findings and said interlocutory order or decree above complained of may be reversed and that said Circuit Court of the United States for the Southern District of Ohio, Western Division, may be directed to enter a decree dissolving and vacating the injunction granted by it and enjoining plaintiff as prayed for in the cross-petition.

WILLIAM C. COCHRAN AND
JUDSON HARMON,
Attorneys and Counsel for Defendants and the Cross-petitioner.

498 And afterwards, to-wit, but on the same day as last aforesaid, an entry was made upon the Journal of the court aforesaid, which said entry is clothed in the words and figures following, to-wit:

Entry-Journal 8, Page 110.

Appeal Allowed and Bond fixed at $20,000.

This day came the defendant herein by its counsel and presented its petition for appeal and an assignment of errors accompanying the same, which petition upon consideration of the court, is hereby allowed, and the court allows an appeal to the U. S. Circuit Court of Appeals for the Sixth Circuit, upon the filing of a bond in the sum of twenty thousand dollars ($20,000.00), with good and sufficient security to be approved by the court.

And afterwards, to-wit, but on the same as last aforesaid, the following Supersedeas Bond was filed in the clerk's office of the court aforesaid, which said supersedeas bond is clothed in the words and figures, following, to-wit:

Supersedeas Bond.

Bond on Appeal—Superseding an Injunction.

Known all men by these presents, that we, The Hall's Safe Company, a corporation organized under the laws of Ohio and having its principal office at Cincinnati, Ohio, Edward C. Hall, William H. Hall and Charles O. Hall, as principals, and Federal Union Surety Company, of Indianapolis, as surety, are held — firmly bound unto Herring-Hall-Marvin Company in the sum of twenty thousand dollars ($20,000.00) to be paid to the said Herring-Hall-Marvin Safe Company, and for the payment of which well and truly to be made, we bind ourselves, and each of us our and each of our successors, heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 14th day of July, 1905.

The condition of this obligation is such that whereas the said obligors, The Hall's Safe Company, Edward C. Hall, William H. Hall, and Charles O. Hall have prosecuted an appeal to the United

States Circuit Court of Appeals for the Sixth Circuit to reverse the decree for an injunction granted on the 6th day of July, 1905, in a suit pending in the Circuit Court of the United States for the Southern District of Ohio, Western Division, in equity, wherein the
499 said Herring-Hall-Marvin Safe Company is plaintiff, and the above named obligors are defendants, and dismissing the cross bill of the said The Hall's Safe Company.

Now, if the above named obligors shall prosecute their said appeal to effect and answer all damages and costs if it fail to make such appeal good and shall pay all damages and profits which may result from their carrying on the safe and vault business in the name of The Hall's Safe Company as has been done and is now done, or in any name similar to that of Hall's Safe & Lock Company, and from advertising or in any manner designating their product as "Hall's Safes" or vaults as has heretofore been done and is now done, and from marking their product in any manner with the name "Hall's Safe Company" or any name so similar as to mislead the trade or cause mistake, and from representing in any manner that they are the Hall's Safe & Lock Company, or its successors, or that they are carrying on the business established by Joseph L. Hall, or that the safes which they manufacture are "Hall's Safes," and from interfering in any manner with the alleged exclusive right of said Herring-Hall-Marvin Safe Company, its successors and assigns, to use the trade name and possess and enjoy the good will of "Hall's Safe & Lock Company" from and after the date hereof until the final decision of the said Circuit Court of Appeals thereon in case their said appeal should not be sustained; then this obligation shall be void, otherwise the same shall be and remain in full force and virtue. But it is understood that this bond shall not be considered as securing the payment of any damages or profits which may have resulted from the acts of said defendants prior to the date hereof.

[SEAL.] THE HALL'S SAFE COMPANY,
By W. H. HALL, *Vice-Pres.*
E. C. HALL.
W. H. HALL.
CHARLES O. HALL.

[SEAL.] FEDERAL UNION SURETY CO.,
By PHILEMON B. STANBERRY, JR.,
Resident Vice-Pres.
By ROBERT W. HUMPHREYS,
Resident Assistant Sec'y.

The foregoing bond is hereby approved to operate as a supersedeas as to said injunction, and the order of injunction and further proceedings are stayed pending said appeal.

C. D. CLARK,
District Judge.

500 And afterwards, to-wit, on the 11th day of August, A. D. 1905, an entry was made upon the Journal of the Court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry-Journal 8, Page 122.

Time to File Transcript in C. C. A. Extended 30 Days.

Upon application of the clerk of this court and for good cause shown, it is ordered, that the time to file the transcript of the record herein, in the Circuit Court of Appeals, Sixth Circuit, be and hereby is extended thirty days.

And afterwards, to-wit: on the 11th day of September, A. D. 1905, an entry was made upon the Journal of the Court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry-Journal 8, Page 128.

Time to File Transcript in C. C. A. Extended 10 Days.

Upon application of clerk and for good cause shown, the time for filing Transcript of Record in this cause in the Circuit Court of Appeals for the Sixth Circuit is hereby extended ten (10) days.

And afterwards, to-wit, but on the same day as last aforesaid the following stipulation with regard to filing exhibits was filed in the clerk's office of the court aforesaid, which said stipulation is clothed in the words and figures, following, to-wit:

Stipulation with Regard to Filing Exhibits.

Circuit Court of the United States for the Southern District of Ohio, Western Division.

No. 5893.

HERRING-HALL-MARVIN SAFE CO.,
vs.
THE HALL'S SAFE COMPANY ET AL.

Stipulation with Regard to Filing and Use of Exhibits.

501 It is hereby stipulated and agreed by and between counsel for the respective parties, that all of the exhibits noted in the testimony taken in this case were produced on the hearing of this cause before his honor Judge Clark in the Circuit Court, and were left in the custody of the clerk of said court, but by inadvertence of counsel the same were not formally filed and marked as filed by the clerk until several days after.

It is now agreed that all of such exhibits shall be considered and treated for all purposes of this case and in any subsequent proceedings in said court or any court to which said cause may be taken by appeal, or otherwise, as if filed on the day when said hearing began, to-wit, as of June 13th, 1905.

LAWRENCE MAXWELL, JR.,
Of Counsel for Plaintiff.
W. C. COCHRAN,
Of Counsel for Defendants.

And afterwards, to-wit: on the 14th day of September, A. D., 1905, an entry was made upon the Journal of the Court aforesaid, which said entry is clothed in the words and figures, following, to-wit:

Entry-Journal 8, Page 129.

Order to Send Exhibits to Circuit Court of Appeals.

By request of counsel for the respective parties and for good cause shown it is hereby ordered that all original exhibits produced or used at the hearing of this cause in the circuit court be forwarded to the Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, at Cincinnati, to be used in the hearing of said cause in the said Circuit Court of Appeals.

THE UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

I, Benjamin R. Cowen, Clerk of the Circuit Court of the United States, for the Southern District of Ohio, Western Division, do hereby certify that the foregoing is a true and complete copy
502 of all papers filed and proceedings had and entered in the cause pending in said court, wherein Herring-Hall-Marvin Safe Co., is Complainant, and The Hall's Safe Company, *et al.*, are respondents, as the same appear on file and of record in my office, omitting certain original exhibits which, by agreement of counsel for the respective parties and the order of the court herein, are transmitted to the Circuit Court of Appeals for the Sixth Circuit to be used on the hearing of said cause in the said Circuit Court of Appeals.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the City of Cincinnati, Ohio, this 15th day of September, A. D. 1905.

B. R. COWEN, *Clerk,*
By ROB'T C. GEORGI,
Deputy Clerk.

Circuit Court of the United States for the Southern District of Ohio, Western Division.

HERRING-HALL-MARVIN SAFE CO.
vs.
THE HALL'S SAFE COMPANY ET AL.

The plaintiff waives citation and enters its appearance to the appeal taken by defendants. It agrees that in making up the transcript for the court of appeals the clerk of this court may transmit without copying them, the originals of all advertisements, pamphlets, books, engravings and photographs, included in the exhibits. The parties will designate to the clerk of the court of appeals what exhibits shall be printed.

LAWRENCE MAXWELL, JR.,
July 19, 1905. *Counsel for Plaintiff.*

No. 5893. Circuit Court of the United States, Southern District of Ohio, Western Division. Herring-Hall-Marvin Safe Co., Plaintiff, *vs.* The Hall's Safe Co., *et al.*, Defendants. Waiver of citation and appearance of plaintiff to defendants' appeal. Filed July 26, 1905. B. R. Cowen, Clerk.

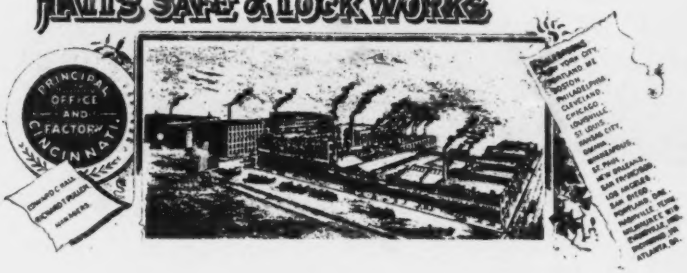
503

Endorsed: Plaintiff's Ex. No. 4, J. L. L., N. P.

Munsey's Magazine—Advertising Section. Dec., 1901.

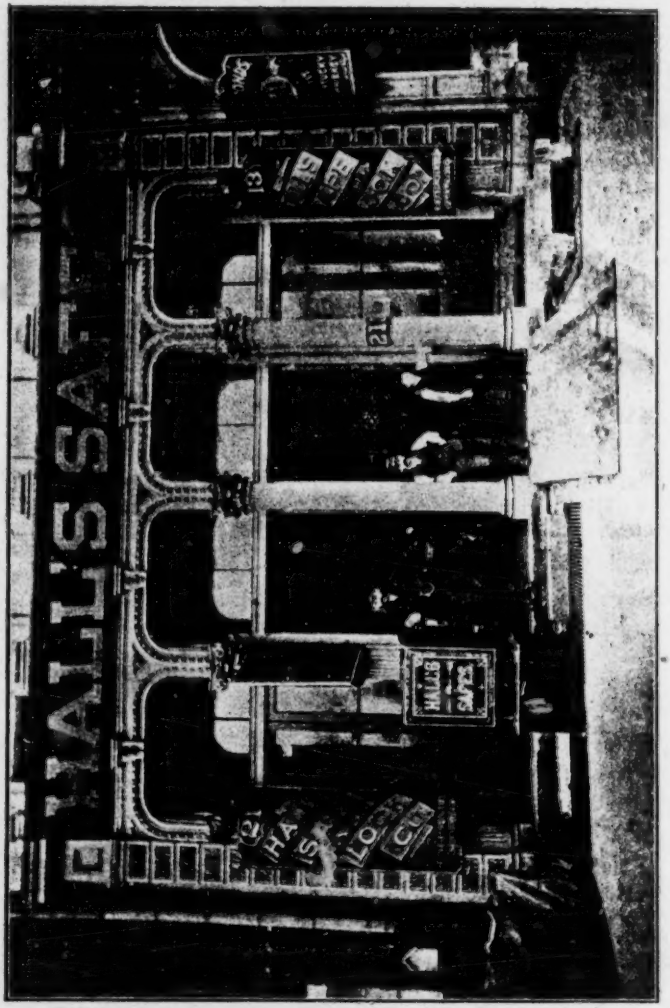
HALL'S FIREPROOF AND BURGLAR-PROOF SAFES
THE OLD RELIABLE.
Sold for 60 years. Known all over the World.
High Grade
House Safes
SPECIAL 30 DAY OFFER.
Shipped to any point in the United States.
Freight prepaid east of the Mississippi River.
Outside. Inside.
Size A 27 inches High, 18
Wide, 20
Deep, 11
$32.00
Size B 32 inches High, 19
Wide, 15
Deep, 13
$42.00
Remit by P. O. money order, N. Y. draft, check, registered letter or express order. Other sizes and prices on application.
These are not cheap, unreliable goods, but the best safes. Guaranteed throughout. Combination locks. Made by the oldest and foremost safe house in the world. Established 1841. Catalogue free.
House Safes. Office Safes. Bank Safes and Vaults.
The Hall's Safe Co., 393 Broadway, N. Y. City.

Endorsed: Pltff's. Ex. No. 10, J. L. L., N. P.



504

Endorsed: Plaintiff's Ex. No. 11, J. L. L., N. P.



HALL'S SAFE & LOCK CO.
CINCINNATI, NEW YORK, MINNEAPOLIS & ST. PAUL.
J. J. TOBIN & CO. N. W. AGENTS.

Hall's Safe & Lock Co.

Cliffs Ex. #16

J. L. L., M. P.

THE MANUFACTURERS OF

Hall's Patent Standard Fire-Proof, South American, Sectional and Coin, Fire & Burglar-proof, Bankers' Burglar-proof Safes,

Fire-proof & Burglar-proof Vault Fronts and Vault Linings

OF ANY DIMENSIONS REQUIRED

SAFE DEPOSIT VAULTS AND BOXES.

Express Boxes and Jewelers' Safes.

FACTORY & PRINCIPAL OFFICE

CINCINNATI, O.

324 Broadway, New York.

609 Market St., San Francisco, Cal.

U. S. A.

417

Illustrated Catalogue

— OF —

Hall's Safe and Lock Co.

Cincinnati.

508

HALL'S SOLID ANGLE WELDED ROUND CORNERED FRONT AND BACK SAFES.

These Safes are made with Angle Frames at front and back, bent round and Welded Solid at all Corners. The body of Safe formed of one continuous plate of iron, with additional strengthening bars, on sides and corners. All Safes are filled from the bottom, massive bolt work, and Hall's Patent Four- umbler Combination Lock. These Safes embody every improvement, and are the strongest, best, and most reliable Safes made.

We desire your Special Attention to the following:

Owing to the many different sized safes we are now manufacturing, according to our Catalogue, and also the many special sizes ordered, we find it utterly impossible, in our crowded state to keep a line of all sizes, as per Catalogue, in stock at one time.

In order to facilitate matters, and at the same time increase our sales, we have decided to set apart a certain few popular sizes, to be called our Regular Stock sizes. A line of these sizes we shall endeavor to keep in stock at all times, so as to fill all orders promptly on receipt.

All sizes other than those mentioned below will be considered as special sizes, and will only be made as ordered, but not carried in stock.

A strict observance of the above will facilitate the filling of orders promptly.

Nos. 72, 74, 76, 77, and 79, with or without Inside Door.

Nos. 83, 84, 85, 87, 88, 89, 90, 91, 93, 94, with Inside Doors.

No. 77—X, Fire and Burglar Proof.

No. 80—X, Fire and Burglar Proof.

No. 81—X, Fire and Burglar Proof.

Nos. 83—X, C. B. 85—X, C. B. 86—X, C. B. 87—X, C. B. 88—X, C. B. 90—X, C. B.

Nos. 83—X, 85—X, 86—X, 87—X, 88—X, 89—X, 90—X, 91—X, 93—X, Full Box.

Yours Respectfully,

HALL'S SAFE & LOCK CO.

Hall's Fire-Proof Vault Fronts are made of Plate Iron, with Flat or Round Bolts. Outside Door has Hall's Patent Four-Tumbler Combination Lock. Inside Doors have Flat Key Lock.—Trimmings Nickel-plated.

They can be made any size desired, and when exact opening and thickness of walls are given, are so constructed as to be readily put in place at any time after vault is otherwise completed.

Full Specifications furnished when necessary .

IMPORTANT REASONS WHY HALL'S SAFE AND LOCK COMPANY'S SAFES AND LOCKS ARE THE BEST.

Owing to the many varieties and styles of so-called Burglar and Fire-proof Safes and Bank Locks made by the many manufacturers, all of whom strive to place their work upon the same footing of merit as ours, we deem it necessary to give you some of the most important features claimed for our improvements, and leave you to judge of the comparative merits of all.

Our president, Joseph L. Hall, Esq., has been actively engaged in the manufacture of Safes and Locks for the past forty years, and has practically familiarized himself with the art of Safe and Lock making—the required security demanded—and the methods of how burglars have operated in all the important bank robberies throughout the country, consequently he has taken out letters-patent for the many improvements which we now combine in the construction of our work, and for which

WE CLAIM FOR HALL'S PATENT DOVE-TAILED, TENON AND GROVE BURGLAR-PROOF SAFES:

That the dove-tailing of the plates around the edges of the door, which shut into corresponding dove-tails in door-jamb securely, prevents the successful use of the most powerful instrument of the burglar, the wedge; as the more the wedge is driven the more compact the work is forced together, a claim which all stepped, straight-edged safes can not substantiate.

2nd. That our method of making a tenon around the door, which closely fits into a corresponding groove around the door-jamb, when the door is shut, form a perfectly tight and compact joint, and prevents the successful use of the wedge and the introduction of that powerful compound, Nitro-Glycerine, or any other explosive fluid.

3rd. That Hall's Patent Traverse and Cam Hinges move the door squarely in and out of tenon and groove and dove-tails, before the door will swing, thus combining the door and door-jamb together equivalent to solid metal, and insuring exceedingly close-fitting joints.

4th. That the dove-tailing of all iron plates at every corner of the safe prevents the successful use of the wedge or any of the burglar's implements.

5th. That our solid steel bent or angle corners also prevent the successful use of the wedge or other burglar's tools.

6th. That our tenon and groove, or dove-tail angle irons around all corners of the Safe, adds very greatly to its security in many respects.

7th. That the corners of our Safes, made as above described, forms the only solid corner made.

8th. That our method of constructing the walls of our Safes of alternate plates of iron, welded iron and steel, carbonized and decarbonized steel and crystal steel, and

9th. That by combining the said plates together by heavy Machine Screws and Conical Twisted and Threaded Iron and Steel Drill-proof Arbors (which pass through the whole number of plates), successfully prevents the Safe from being drilled, stripped, or the plates forced apart by sledge hammers, jimmies, jackscrews, or any of the various appliances known to the professional burglar.

10th. That our patent heavy double bolt work (which works in a heavy wrought iron frame), is secured to the door by Hall's Conical Twisted Iron and Steel Drill-proof Bolts passing through the entire door, successfully

prevents the door from being forced away from the bolt work by levers, jimmies, jackscrews, or any other pressure.

11th. That Hall's Patent Detached Eccentric Arbor for throwing the massive bolt work perfectly disconnects itself from the bolt work when the Safe is locked, and revolves in any direction at will, and Hall's Patent built in Disk Arbor absolutely prevents access to the Lock by the usual methods of Driving in or Pulling out the Arbor, consequently prevents any pressure from being taken on the bolt work or lock. These are new patented improvements and a highly important feature.

12th. That there has never been one of our Burglar-proof or Fire and Burglar-proof Safes broken open and robbed by burglars during the whole time (forty years) of their manufacture.

13th. That any so-called Burglar-proof Safe made by any manufacturer upon the old method, and not combining the above specified improvements, we do not consider secure from the many practically improved methods of burglars of the present day.

14th. That we are willing to test the merits of our work with any manufacturer at any time if they do not infringe upon our patents.

FOR HALL'S PATENT FIRE-PROOF SAFES, WE CLAIM:

15th. That Hall's Concrete Filling makes our Safes absolutely Fire-proof.

16th. That Hall's Concrete Filling makes our Safes absolutely Damp-proof.

17th. That our Solid Angle Corners add greatly to their security in time of fire.

18th. That Hall's Patent Bolt work is superior to any in use, and does not require the constant oiling, cleaning and repairs that is acknowledged in some other make of Safes, by their method of exposing the bolt work, for the above reasons.

19th. That Hall's Concrete Filling always remains hard and dry, and never oxydizes the iron, and the Safe will remain good a lifetime.

20th. That the doors (being the weakest point) are made of heavy plates, which adds greatly to their security.

21st. That although 300,000 of these Safes are now in use, and thousands have been tested by some of the most disastrous conflagrations in the country, there is not a single instance on record wherein one of them ever failed to preserve its contents perfectly.

FOR HALL'S PATENT COMBINATION LOCKS, WE CLAIM:

22nd. That we manufacture eleven different varieties of Bank and Safe Combination Locks.

23rd. That our Locks are much more simple in their construction than any of the so-called secure bank locks manufactured by any other safe or lock maker.

24th. That our Locks combine more security than any other locks manufactured.

25th. That our Locks are easily operated by the parties possessed of the combination.

26th. That the Combination can be easily changed to any desired combination by any person.

27th. That every precaution has been taken to guard against any possibility to pick them, as our knowledge of the many weak points of other locks has enabled us to safely guard against such imperfections.

28th. That for elegance of finish and faithful performance they can not be equaled.

29th. That our Locks have withstood a test of nine days' duration by an accomplished expert lock-pick without being opened, or his obtaining the placed $1,000 placed behind it, although it would easily and readily open on the proper combination.

30th. That by our numerous variety of Locks, we do not confine our customers to one class of locks only, but can give them as many different

varieties of locks as there are locks on their safes, which is quite an important and valuable feature.

21st. That as we manufacture all our own Locks (and are not compelled to purchase from some exclusive lock manufacturer), we can offer them to customers purchasing Safes at their actual cost, and thus not compel them to pay large profits to lock makers.

22nd. That by one of the Greatest Improvements known, the Automatic Rotary Movement, our Locks are operated without any arbor or spindle passing through the door and into the lock. The importance of this great improvement can be easily seen by any person at all familiar with locks, as it has always been considered that one of the weakest points is th arbor connecting the dial and lock; hence it is impossible to compute the value of this crowning improvement in the art of lock and safe making.

23rd. That our Locks can not be picked or opened by burglars or experts (as in the case of other locks), and we will put from $1,000 to $10,000 behind them at any time against an equal amount.

DYNAMITE PROTECTION!

24th. That all of our Safes and Vaults are protected by Hall's Dynamite Device, totally preventing an entrance by the use of that most powerful explosive—Dynamite.

In addition to the above enumerated specialties, we manufacture all styles of Vault Work, combining our various improvements, which enable us to construct a superior quality of work.

Having given you a few of the leading features which we combine and monopolize (by our exclusive patents) in the construction of our Safes and Locks, we would respectfully ask your investigation into the improvements which we claim, before purchasing elsewhere. Security is the first sole object to be obtained, and a thorough investigation into the construction of our work will fully and more than substantiate all the assertions we have made, and with our vast facilities we can furnish you with more security than any manufacturer known. We can refer to thousands of testimonials which we have from leading Banks, Merchants, and others, who voluntarily testify to the superiority of our work.

We have notified all manufacturers, and the public in general, that any infringement on any of our various patents will be rigidly prosecuted, no matter where found.

With all these improvements combined, we propose to furnish our customers with our Safes and Locks at a price as cheap as any of the old style work.

THE GREAT RIOT AT CINCINNATI, MARCH 29, 1884.

Burning of the Hamilton County Court House. Hall's Safes in the Conflagration. $1,130,000 Saved.

TESTIMONIAL OF THE COUNTY COMMISSIONERS.

County Commissioners' Office, Hamilton County.

JOSEPH L. HALL, Esq., Pres't Hall's Safe & Lock Co.

Dear Sir:—Feeling that the great service rendered this county by the perfect quality of your Safes deserves some recognition, we desire to say that at the time of the great riot of March 29th, 1884, the fire which laid the Hamilton County court house in ruins was started by barrels of coal oil and furniture and records heaped together in Treasurer's office, where stood one of your large Safes containing in the neighborhood of one million, one hundred and thirty thousand dollars in money, besides papers and records of very great value. The test to which this Safe and others of your make in the building were subjected was one that very justly caused alarm among our citizens for the safety of their valuable contents, from the fact that the mob refused to let the firemen work, and the flames raged till nothing was left within the block for them to feed upon. It was Saturday night when the torch was applied. Monday morning we succeeded in reach-

ing the large Safe referred to and opening it, and were relieved of a terrible load of suspense by finding its contents perfectly intact and uninjured. More than this, there was not even the smell of fire upon them, and the paint upon the inside of the doors was as bright as when the Safe was closed and locked the Saturday previous. The Safe was opened in the presence of the Commissioners of Hamilton County and other officers and members of the press, and its perfect preservation of its contents was all the more a surprise from the fact that the contents of an iron vault four feet from the Safe in the same room were entirely destroyed. Your Safes throughout the building fully sustained the great reputation of your work in this line. Among the ruins, where hundreds of thousands of dollars worth of property and priceless records lay in ashes, they held and saved hundreds of thousands of dollars to the county, besides records that could not be replaced. In spite of the handles and dials being melted off of the Safe in the Clerk's office, its contents were found perfect, and the Safe, after slight repairs, is again in use. The large Safe that was in the Treasurer's office we expect to use again when our Court House is restored, but, the floor in the temporary office provided for the Treasurer not being deemed strong enough to support such a Safe, we have provided that officer with another large fire and burglar-proof Safe of your make, and have provided other Hall's Safes for the temporary offices of the county. The confidence inspired by the long-established and unequaled reputation of your Safes, and a critical examination of the construction of the same under your various patents, which led the commissioners of this county to adopt them for the important purposes of the county's use, has been redoubled since the terrible and unusual test their trust has been put to. When police and engines and the militia of the State were powerless to avert the catastrophe, those silent, dumb custodians known as "Hall's Safes" performed their duty and did it well.

H. B. KUHL,
GEORGE WABNITZ,
JOHN ZUMSTEIN,
Commissioners of Hamilton County, Ohio

T. H. HUNT, Clerk.

Cincinnati, February 3, 1865.

JOSEPH L. HALL, Esq., Pres't Hall's Safe & Lock Co.

Dear Sir:—In reply to your inquiries as to the condition of our Safe after the terrible Court House fire of March 29, 1864, we are pleased to say it was all that could be expected; being probably exposed to the greatest heat, the fire having been started with several barrels of coal oil in the room in which it stood. The fire occurred on Saturday night. Monday morning, in the presence of the County Commissioners, members of the press and several others, our cashier, Mr. R. M. Brasher, opened the Safe with the combinations without any difficulty. The painting on the inside doors was as bright as when the Safe was closed on the Saturday previous. Not a particle of evidence of the least damage, and the contents, some $1,130,000 in money, books and papers were in perfect order, with not a smell of fire on them. The County Commissioners, feeling so secure and pleased with the Safe and contents, ordered them to remain as it was until new quarters were found, some two weeks after, when we removed to our present location, the floors of which not being strong enough to hold the old Safe, we secured another "Hall," to which the contents were removed.

To give you an idea of how hot the fire was it is only necessary to state that the contents of an iron vault four feet from the Safe in the same room were entirely destroyed. Being in need of more safe room, we found a large Hall's Safe in the Court-House yard that had gone through the fire standing in the office of the County Clerk. The outside was burned badly, not a particle of paint left on it, but the inside was perfect—the wood work not being even scorched. We moved it to the Treasurer's office, where it is now in use. Being still further in need of safe-room, we bought another "Hall," which is also in satisfactory use. We are pleased to have an opportunity to attest to the complete security given by your Safes.

Respectfully yours,
CHAS. A. MILLER, County Treasurer.

R. B. BROOKS, Chief Deputy.

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Cincinnati, March 14, 1885.

HALL'S SAFE & LOCK COMPANY.

Gentlemen:—Word having come to me that a report is in circulation that I made a statement in writing, while Sheriff of Hamilton County, to the effect that the Safe used in my office had failed to preserve the contents during the Court House fire, and that said Safe was of the Hall make, I wish to contradict the statement and deny that I ever made it and, besides, the Safe then used was not furnished by the Hall's Safe & Lock Company. The Hall's Safes used in the Court House at the time did, to my knowledge, preserve everything claimed therein.

MORTON L. HAWKINS, Ex-Sheriff.

HALL'S SAFE & LOCK CO.'S SAFES IN THE GREAT CLEVELAND, OHIO, FIRE OF SEPTEMBER 7th, 1884.

[Frank Leslie's Illustrated Newspaper, for the week ending September 27, 1884.]

THE CLEVELAND FIRE—OPENING THE SAFES.

In another column we illustrate one of the interesting incidents following the recent great fire in Cleveland, Ohio. Safes containing the papers and valuables of the principal firms and companies suffering by the flames were gradually exhumed from the ruins, and in some instances their contents found wholly illegible and valueless. In the office of the Variety Iron Works had been placed one of the largest size Hall's Safes, and upon opening it all its contents were in perfect order and preservation. The Safe was in the midst of twenty acres of lumber, all ablaze at the same time, the flames leaping two hundred feet into the air, and making so great an illumination of the surrounding country that persons on Euclid avenue, four and one-half miles away, were enabled to read a newspaper without difficulty. After the Safe had been opened, there were taken from it the valuable books and papers of the company, every line and figure therein being perfectly legible. Some twenty-eight books and a bushel or more of valuable papers were thus preserved, giving unquestionable evidence of the superior fire-proof qualities of the Hall standard Safes. Hall's Safe & Lock Company are the most extensive manufacturers of Safes and Vaults in the world. With an experience of more than forty years in this business, they have unequaled facilities for supplying anything, from the smallest fire-proof merchant's Safe to the complete outfit for the largest bank or safe deposit company. More than one-half the banking capital of the United States is nightly secured in Safes and Vaults made by them, besides large shipments of their goods to foreign countries, giving steady employment to seven hundred and fifty skilled workmen in the factory, besides having stores and offices in all the large cities.

THE BURNING OF CHICAGO.

Hall's Safes in the Great Conflagration from 40 to 240 Hours.

Below will be found a partial list of Prominent Business Houses who had our Safes in use during the fire, and have given voluntary testimony as to their reliability.

[Copy.] Chicago, October 13, 1871.

HALL'S SAFE AND LOCK CO.

Gentlemen:—We, the undersigned, having had your Safes in use during the terrible fire of October 8th and 9th, wish to add our testimony to the already high reputation of your work.

In the fire so unprecedented for long continued and intense heat, it is a sufficiently high compliment to your Safes to say they brought their contents out in good condition, notwithstanding the fact that in many cases they lay roasting in the burning debris for over a week. As they have been "tried and not found wanting," we take pleasure in recommending them to all who may be in want of Fire-Proof Safes.

Keith Brothers	Massachusetts Life Ins. Co.
J. W. Stearns & Sons	Globe Mutual Life Ins. Co.
Wells, French & Co.	S. N. Wilcox

Asbury Life Ins. Co.
M. P. Stone & Co.
Phelps, Dodge & Palmer
Isaac G. Lombard
J. B. Mayo & Co.
A. Friable & Son
A. B. Van Cott & Co.
J. M. Marshall
T. A. McLelland
Canoll & Thorne
M. S. Benedict
H. M. Staley & Co.
Deane & Cahill
A. E. Swift & Co.
Esmay, Simmons & Co.
P. Gillispie
M. Kauffman
L. W. Beck
A. O. Fay.
Champlin & Rodgers
Moseback & Humphrey
Davenport & Van Duser
F. C. Crittenden
Boynton & Noyes
N. P. Rappleye
J. M. Daggett
C. Walter Brown
Wm. H. Gruby
M. E. Page & Co.
Wilson Brothers
Wadhams, Willard & Co.
Foster, Lee & Co.
J. V. Clarke & Co.
Charles Jacobs
Dennison & Co.
J. A. Fay & Co.
Chas. J. Fisher
Thayer & Tobey Furniture Co.
Smith & Dexter
Jones & Torrey
M. Kaefer
Willis M. Hitt
Chas. L. Epps & Co.
Smith & Caldwell
R. G. Dunn & Co.
A. Zeller
A. B. Wilcox & Co.
M. Scanlan
Millard & Decker
A. Loeb & Bro.
Fred. S. Newell
Geo. W. Waite & Co.
Wallace & Henderson
J. Livingston
Murison & Erskine
Wm. C. Grant
Wm. D. Kerfoot & Co.
J. H. & C. M. Goodsell
Mauran Wright & Co.
Knauer Brothers
S. S. Whitney & Sons
T. A. Hay
F. J. Bartels
Chas. Johnson
Chas. Woodward
J. L. James
G. A. Springer
Gustin & Humphreys
A. Booth
E. D. Terry
Clark & Abbott
L. L. & W. N. Mills
Nellson & Carr
Cone, Green & Co.
B. M. Ford & Co.
Cavanah & Bodle
D. & C. F. Blakely
James Irons
J. F. Temple & Sons
Wolcott & Favorite
Cone & Ten Brocke Car Mfy.
John H. Keyser & Co.
D. W. C. Creiger
Chicago Water Works (2 safes)
R. H. Mason
Harry Duval
E. Jacobs
Rand, McNally & Co.
L. L. Leach
J. B. Ayer
Enos Johnson
Field, King & Co.
W. J. Tewksbury
S. S. Miller
Ryerson & Johnson
Hall & Wood
Epstein, Goodman & Co.
J. Pflaum
David Thornton
Huyck Bros.
Thos. Healy
Bellamy & Son
Chicago Alcohol Works
A. S. Esmay & Co.
O. S. Hough & Son
M. B. Barbier
D. Goodman, Jr.
E. M. Doubleday
W. H. Lahman
John M. Wilkins
G. S. Hubbard, Jr.
A. V. Willett
Oberne, McDonald & Co.
B. F. Murphy & Co.
Land Owner Publishing Co.
J. B. Schandler
Sandmeyer & Klasson
John Middleton & Co.
Carver Brothers
J. M. Wing & Co.
Abm. Marcus
F. W. Savage & Sons
Co-operative Medicine Co.
Felsenthal & Kosminski
Keystone Collar Co.
James Ullman
J. H. Donlin
E. L. Brand
A. Lipman
Chase, Hanford & Co.

Extracts from the Bangor, Maine, papers, January 7th, 1882.

AN IMPREGNABLE SAFE.

How Messrs. Bowler & Merrill's New Safe Deposit Chest was Tested.

The announcement that the immense Burglar-Proof Safe Deposit Chest for Messrs. Bowler & Merrill had arrived, and that some of the most skillful mechanics in the city would test its powers of resistance to the drill and other implements used by burglars, during forenoon of yesterday, attracted quite a crowd of people to the Main Central depot where the ponderous affair lay. The morning was bitter cold and the safe was consequently full of frost. An iron frame constructed of two bars, 2 x 2 inches, running parallel on the sides and connected on the ends by strong iron rods, enclosed the safe. Between the iron framework and the safe a space had been left on one side. Into this space was inserted a ratchet drill. The power put upon the drills was calculated to be from 25 to 30 tons to the square inch. Several of the finest steel drills that could be made were used up in the endeavor to bore into the plate. The test was applied at various points on the safe. Finally, after working a long time, a pressure estimated at 70,000 pounds was brought to bear upon the drill, when one of the connecting rods broke like a pipe-stem. Notwithstanding the long time that had been devoted to this test (during which a number of steel drills had been used up), and the tremendous pressure brought to bear, the ratchet drill had only made a diminutive hole in the outside plate, which is only one-tenth of an inch in thickness, and soft compared to the nine layers, aggregating four and one-half inches thickness, of amalgamated steel and iron, which make up the wall proper.

The tremendous test to which the safe was subjected and which it so successfully resisted, was convincing proof that it is literally impervious to the burglar's drill, and would seem to be entirely impregnable. The height of the safe is six feet and six inches, its width fifty-six inches, its depth twenty-eight inches, and its weight about 15,000 pounds. As will be inferred the chest is of steel. It was manufactured especially for Messrs. Bowler & Merrill, at the works of the Hall's Safe and Lock Co. The front doors are dovetailed into the frame of the safe and operated by four combination dials, two levers and two eccentrics. The safe is finely ornamented, a beautiful landscape, artistically executed in colors, embellishing the front, while the ends are decorated with exquisitely painted bouquets. The chest will be placed in the vaults at once and will be ready for use in a few days. The firm have one of a similar character already in use, but their increasing business demanded these additional facilities.

Dodge City, Iowa, December 20th, 1880.

GEO. H. MARSH, Esq., Cashier Iowa Nat. Bank, Des Moines, Iowa.

Dear Sir:—Hall's Safe and Lock Co., of Cincinnati, ask if you have written to me, making inquiry regarding their safe work, and saying they had referred you to me, knowing I had made critical personal examinations at factory. As no such letter of inquiry has been received since my return, and if written, was miscarried, I will say that I went to Cincinnati and stayed nearly two weeks, and being a mechanic, I went to work in their factory and made critical examinations of not only my work, but other jobs being built there, and must say that the Company have very strict rules regarding their work, and allow no piece of steel to enter into the construction of their burglar chests until it has been subjected to the most powerful and severe tests. I had with me a very fine set of heavy drills (no better ones are made), and I made very many tests during several days, with heavy steam drill-press to assist me, and could in no case drill any piece that had passed the hands of their tester, and the tester (who does nothing else but test plates) told me that he would certainly get discharged if he let any piece go by him that any man could drill. I also examined the construction of every part of their Burglar Safes, as well as their locks and arbors, and I think they make a complete Burglar-proof job.

I bought a fine job of them, and am so well satisfied with their extreme care in manufacture, that I would never waste time again going to make tests or examinations.

Yours truly,

(Signed,) ABNER GRAVES, Banker.

ROLLSTONE NATIONAL BANK.

Fitchburg, Mass., May 8, 1884.

HALL'S SAFE AND LOCK CO.

Gents:—Some months since, when looking for a Burglar-Proof Safe, we requested a sample of your five-ply iron and steel, to be tested in any manner that we desired. I now return the plate, and will say that it was taken to the shops of the Putnam Machine Co. here, and subjected to a drill test under one of their powerful power presses, using the best steel known to them for drills; that we were unable to drill it the sample shows. It was next bolted to a large block of iron, and three men, using thirty pound sledges, pounded it in the center of the plate for a long time, in hopes of causing the welds to crack or separate. This we also failed to do. We then supported the diagonally opposite corners, and again pounding it in the center, bent it almost to a right angle before breaking any of the plates. I did not expect that it would bend half so much as it did before cracking, and can say that the metal, under all the tests (but especially the last, as to bending), more than satisfied your claims. We thereupon ordered of you a Safe, believing that being made with solid corners, and wide plates of steel and iron, as proposed by you, it would possess more and better burglar-proof qualities than those of any other maker.

In talking with your competitors we asked some questions about your work, and were guaranteed verbally (never could get it in writing) that if we could find in your factory a single piece of work being built with wide plates and solid corners, as proposed by you, they would give us one of their best Safes. I consider their Safes as good as their statements, much below par.

During the construction of our Safe I spent some time at your factory, seeing the sections of the Safe set up, and during the time caused the several plates to be tested, using drills that easily drilled glass, and, to use the expression of the person who made the drills, "If anything will drill the plates those drills will do it." In this we failed absolutely, and I was then (if never before) more than satisfied our contract is being faithfully executed. The Safe will probably arrive in a few days, as I am advised of its shipment, and should you at any time wish to have any one in this vicinity examine the work, I shall take pleasure in showing it to them.

Very respectfully, W. B. TENNEY, Cashier.

Monmouth, Ill., May 8.

HALL'S SAFE AND LOCK CO.

Dear Sirs:—We embrace this opportunity to offer our testimony to the excellence of your work in Safes. Our recent lock-out, through failure on our part to operate the Time Lock (made by one of your competitors) attached to the safe door according to directions, having afforded us an unusually good opportunity to test its resisting qualities. The experts employed to open the safe for us had every facility afforded them, abundance of light and tools, and prosecuted their labor under the most favorable conditions. That it should have required under these conditions and circumstances, three days and two nights of continuous labor to drill a five-eighth inch hole through the safe was a matter of astonishment to our citizens generally, and satisfactory evidence to us that our safe was everything that has been represented to us at the time of purchase.

In the course of drilling operations a number of plates were encountered, so hard all attempts to penetrate them with drills were impossible, although we borrowed from the college here a compound blow-pipe, which was in use for many hours, for the purpose of drawing the temper from the plates which still remained impenetrable to drills, and were fractured in some cases only by the use of heavy sledges and the center punch. In conclusion we have to say that we know of nothing superior to your work, and can recommend it in any terms within reason.

Truly your, W. D. YOUNG, Cashier.

AN UNRIVALED RECORD.

Not an instance on record where one of Hall's Safe and Lock Co.'s Burglar-proof or Fire and Burglar-proof Safes have been forced open and robbed of a dollar by burglars.

We claim, and our unrivaled record demonstrates, that we make the only absolute Burglar-Proof Safe in the world. We solicit critical examination of our work.

A large line of all styles of Safes and Vault work constantly on hand.

THE PRAIRIE STATE LOAN AND TRUST CO.

Chicago, Ill., December 30th, 1885.

HALL'S SAFE AND LOCK CO., Cincinnati, O.

Gentlemen:—The large Burglar-Proof door and vestibule, and the small boxes, manufactured by you for our Safety Vaults, have proved very satisfactory, and call forth many admiring comments from the expert mechanics who have examined them. The writer is pleased to recall the evident carefulness with which the work was done, as discovered by him on visits of investigation to your factory while the work was in progress, and he is now convinced, as he was then, in selecting your Company from among many competitors to build these boxes, etc., that he secured the most perfect, most accurate, and most secure work possible in the line of Burglar-Proof construction.

Very respectfully,

GEORGE VAN ZANDT, Cashier.

THE DIME SAVINGS BANK OF CHICAGO.

Managers of the Chicago Safety Vaults, 104 Washington St.

Chicago, Ill., December 30th, 1885.

HALL'S SAFE AND LOCK CO., Cincinnati, O.

Gentlemen:—The Safety Deposit outfit you furnished us is entirely satisfactory in every respect. We consider the whole work a master-piece of workmanship. As to the solid angles, perfect joints, and your mode of putting plates together by dovetailing and conical bolts, we consider far superior to any work in the market. We feel we have absolute security, so do our patrons, and we will always recommend your work as being the very best, both as to design and construction. The contract as you are aware, was awarded your firm without competition, an act we never have regretted.

Yours truly,

GEO. W. REED, Manager Chicago Safety Vaults.

FIDELITY SAFE DEPOSIT AND TRUST CO.

Cincinnati, O., December 28th, 1885.

HALL'S SAFE AND LOCK CO.

Gentlemen:—The large Safe Deposit Vault made for us by your Company gives us satisfaction in its solid strength, its fine workmanship, and it handsome finish. We are much pleased with it, and cordially commend your work.

Yours respectfully,

JULIUS DEXTER, President.

LOUISVILLE BANKING COMPANY.

Louisville, Ky., December 1st, 1885.

HALL'S SAFE AND LOCK CO., Cincinnati, O.

Gentlemen:—I believe the Vault which you built for us (and which we have since sold to the Louisville Safety Vault and Trust Company) to be not only as strong as any other, but absolutely the strongest, safest, and most impregnable in the United States. It is not necessary to give detailed reasons for this opinion. Persons desiring similar work done will doubtless make careful investigations, as we did, before beginning. I have no doubt the Trust Company will take pleasure in exhibiting and explaining their Vault to any such persons, and the Vault speaks for itself.

Very respectfully, THEODORE HARRIS, President.

SAFE DEPOSIT AND TRUST COMPANY OF ST. LOUIS.

513 Locust Street.

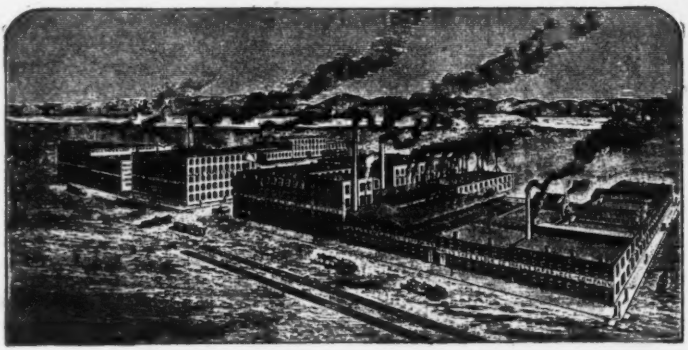
St. Louis, December 29th, 1885.

HALL'S SAFE AND LOCK CO., Cincinnati, O.

Gentlemen:—The two Vaults built by you for this Company have proved satisfactory in every particular. The care expended by you on the work has resulted in their requiring no repairs or refitting of doors or locks. And after four years of use I have seen nothing that would be an improvement in their construction. Yours respectfully,

G. A. HAYWARD, Secretary.

Plaintiff's Ex. No. 20. J. L. L., N. P.



Hall's Safe and Lock Works'

STANDARD SAFES.

Solid Angle Welded Round Cornered, Single Door, Four Flange Fire-Proof Safe. Patent Four-Tumbler Combination Lock.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
35 x 22 x 23 inches deep.	16 x 10 x 11 inches deep.
37 x 24 x 24 inches deep.	17¾ x 11¾ x 11½ inches deep.
40 x 26 x 25 inches deep.	20 x 14 x 12 inches deep.
42 x 28 x 25 inches deep.	21¾ x 16 x 12 inches deep.
46 x 31 x 26 inches deep.	26 x 19 x 13 inches deep.
48 x 32 x 26 1-2 inches deep.	28 x 20 x 13½ inches deep.

Solid Angle Welded, Round Cornered,

Double Door, Four Flange

FIRE-PROOF SAFE.

Patent Four-Tumbler Combination Lock.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
55½ x 34 x 30 inches deep.	33¾ x 21¾ x 15 inches deep.
53 x 38 x 32 inches deep.	32 x 26 x 15 inches deep.
61 x 44 x 33 inches deep.	39½ x 32 x 16 inches deep.
61 x 34 x 32 inches deep.	40 x 22 x 16 inches deep.
71 x 39 x 33 inches deep.	47¾ x 25¾ x 16 inches deep.
73½ x 45½ x 33 inches deep.	50 x 31¾ x 16 inches deep.
79 x 51 x 35 inches deep.	55¾ x 37¾ x 18 inches deep.

AN UNRIVALED RECORD.

Not an Instance on Record Where one of Our Fire-Proof Safes has Failed to preserve its contents against Fire.

Odest, Largest and most Reliable Safe manufactory in the World.

Solid Angle Welded, Round Cornered,

Single Door, Four Flange

FIRE-PROOF SAFE.

With Bankers Steel Chest.

Patent Combination Locks.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
42 x 28 x 28 inches deep.	21¾ x 16 x 15 inches deep.
44 x 30 x 28½ inches deep.	24 x 18 x 15½ inches deep.
46 x 31 x 29 inches deep.	26 x 19 x 16 inches deep.
48 x 32 x 29½ inches deep.	28 x 20 x 16½ inches deep.
51 x 33 x 30 inches deep.	29¾ x 20¾ x 17 inches deep.
53 x 34 x 30 inches deep.	32 x 21¾ x 17 inches deep.
55½ x 34 x 30 inches deep.	33¾ x 21¾ x 17 inches deep.

Our Safes have successfully withstood the attack of Burglars, through all the arts known to their profession.

AN UNRIVALED RECORD OF HALF A CENTURY.

Solid Angle Welded, Round Cornered,

Double Door, Four Flange

FIRE-PROOF SAFE.

With Bankers Steel Chest in Upper Left Corner.

Patent Combination Locks.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
55½ x 34 x 33 inches deep.	33¾ x 21¾ x 18 inches deep.
49 x 36 x 35 inches deep.	28 x 23¾ x 18 inches deep.
57 x 40 x 35 inches deep.	36 x 27½ x 18 inches deep.
61 x 34 x 35 inches deep.	40 x 22 x 18 inches deep.
71 x 39 x 35 inches deep.	47¾ x 25¾ x 18 inches deep.
73 x 45½ x 35 inches deep.	50 x 31¾ x 18 inches deep.
79 x 51 x 35 inches deep.	65¾ x 37¾ x 18 inches deep.

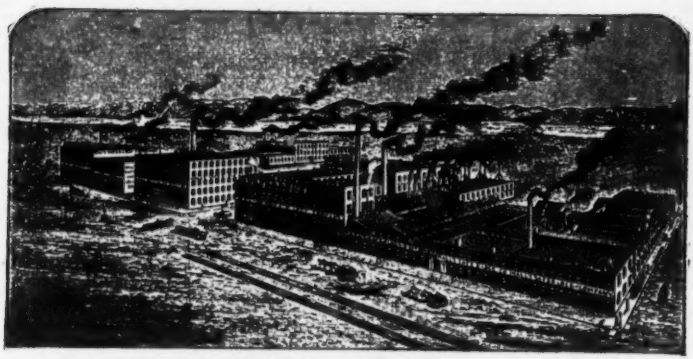
To enable parties desiring Safes to select one suitable to their wants, we have prepared a List of Popular Sizes, and herewith submit same.

HALLS SAFE AND LOCK WORKS,

Principal Office and Factory:

CINCINNATI, OHIO.

Plaintiff's Ex. No. 21. J. L. L., N. P.



Herring-Hall-Marvin Co's

STANDARD SAFES.

Solid Angle Welded Round Cornered, Single Door, Four Flange Fire-Proof Safe. Patent Four-Tumbler Combination Lock.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
35 x 22 x 23 inches deep.	16 x 10 x 11 inches deep.
37 x 24 x 24 inches deep.	17¾ x 11¾ x 11½ inches deep.
40 x 26 x 25 inches deep.	20 x 14 x 12 inches deep.
42 x 28 x 25 inches deep.	21¾ x 16 x 12 inches deep.
46 x 31 x 26 inches deep.	26 x 19 x 13 inches deep.
48 x 32 x 26½ inches deep.	28 x 20 x 13½ inches deep.

Solid Angle Welded, Round Cornered,

Double Door, Four Flange

FIRE-PROOF SAFE.

Patent Four-Tumbler Combination Lock.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
55½ x 34 x 30 inches deep.	33¾ x 21¾ x 15 inches deep.
53 x 38 x 32 inches deep.	32 x 26 x 15 inches deep.
61 x 44 x 33 inches deep.	39½ x 32 x 16 inches deep.
61 x 34 x 32 inches deep.	40 x 22 x 16 inches deep.
71 x 39 x 33 inches deep.	47¾ x 25¾ x 16 inches deep.
73½ x 45½ x 33 inches deep.	50 x 31¾ x 16 inches deep.
79 x 51 x 35 inches deep.	55¾ x 37¾ x 18 inches deep.

AN UNRIVALED RECORD.

Not an Instance on Record Where one of Our Fire-Proof Safes has Failed to preserve its contents against Fire.

Oldest, Largest and Most Reliable Safe manufactory in the World.

Solid Angle Welded, Round Cornered,

Single Door, Four Flange

FIRE-PROOF SAFE.

With Bankers Steel Chest.

Patent Combination Locks.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
42 x 28 x 28 inches deep.	21¾ x 16 x 15 inches deep.
44 x 30 x 28½ inches deep.	24 x 18 x 15½ inches deep.
46 x 31 x 29 inches deep.	26 x 19 x 16 inches deep.
48 x 32 x 29½ inches deep.	28 x 20 x 16½ inches deep.
51 x 33 x 30 inches deep.	29¾ x 20¾ x 17 inches deep.
53 x 34 x 30 inches deep.	32 x 21¾ x 17 inches deep.
55½ x 34 x 30 inches deep.	33¾ x 21¾ x 17 inches deep.

Our Safes Have Successfully Withstood the Attack of Burglars, Through All the Arts Known To Their Profession.

AN UNRIVALED RECORD OF HALF A CENTURY.

Solid Angle Welded, Round Cornered,

Double Door, Four Flange

FIRE-PROOF SAFE.

With Bankers Steel Chest in Upper Left Corner.

Patent Combination Locks.

Dimensions of Safes.

OUTSIDE MEASURE.	INSIDE MEASURE.
55½ x 34 x 33 inches deep.	33¾ x 21¾ x 18 inches deep.
49 x 36 x 35 inches deep.	28 x 23¾ x 18 inches deep.
57 x 40 x 36 inches deep.	36 x 27½ x 18 inches deep.
61 x 36 x 35 inches deep.	40 x 22 x 18 inches deep.
71 x 39 x 35 inches deep.	47¾ x 25¾ x 18 inches deep.
73 x 45½ x 35 inches deep.	50 x 31¾ x 18 inches deep.
79 x 51 x 35 inches deep.	55¾ x 37¾ x 18 inches deep.

To enable parties desiring Safes to select one suitable to their wants, we have prepared a List of Popular Sizes, and herewith submit same.

Edward C. Hall, President. William H. Hall, Treasurer.
Richard T. Pullen, Secretary.

HERRING-HALL-MARVIN CO.

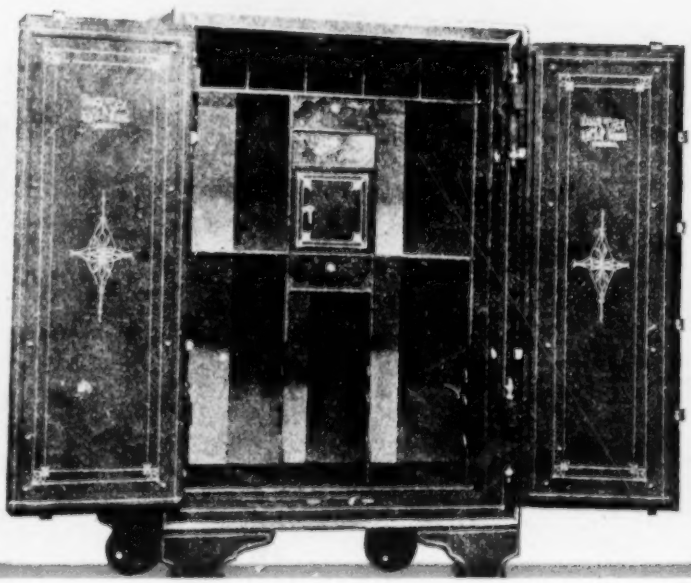
Factories: Cincinnati, New York and Philadelphia.

Principal Office: Cincinnati, Ohio.

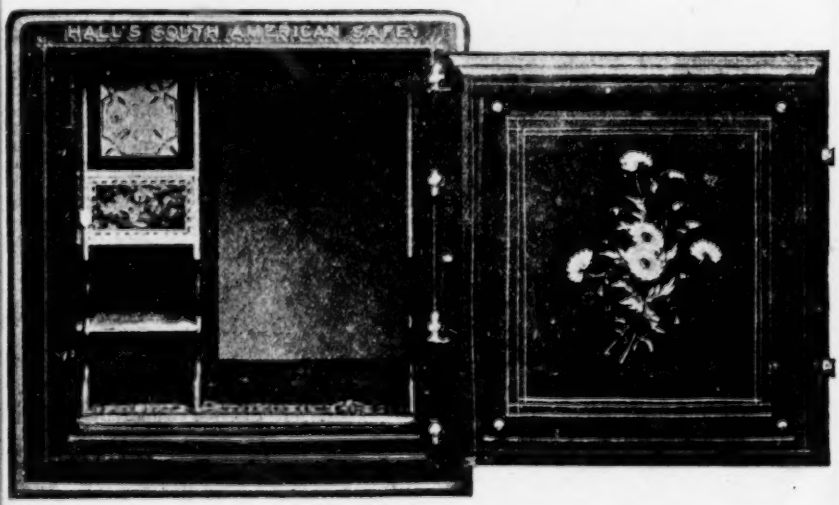
CINCINNATI, OHIO.

527

Endorsed: Plaintiff's Ex. 22. J. L. L., N. P



Endorsed: Plaintiff's Exhibit 22 1-2, J. L. L., N. P.



Steffs. Ex. #23, J.L.L., N.P.

The Manufacturer and Exporter

HERRING—HALL—MARVIN SAFE CO.
MANUFACTURERS AND EXPORTERS OF SAFES

FOR ALL PURPOSES — Write for Catalogue

TO ALL PARTS OF THE WORLD

Ex 23
100 BROADWAY, NEW YORK, U. S. A.

The Hall's Safe Co.

CINCINNATI, OHIO, U.S.A.

Manufacturers of
the Old Reliable

HALL'S SAFES

Ex 23
Fire and Burglar Proof Safes and Vaults

Special Bank Safes and Vaults
Safe Deposit Boxes

Secure Catalogues from

The
Kinsey, Rainier & Thompson Co.
EXPORT SALES AGENTS
393 Broadway, New York

Plffs. Ex. #28
J. L. L. N.P

HALL'S SAFE & LOCK COMPANY,

BUILDERS OF

IMPROVED

Steel and Iron Jail Cell and Corridor Work,

WINDOW AND DOOR GRATINGS, &c., &c.

Hall's Patent Self-Locking Device.

Hall's Patent Double Steel Case Cell Door Lock,

THE MOST PERFECT JAIL LOCK IN USE.

HALLS SAFE & LOCK CO.,

FACTORY & PRINCIPAL OFFICE:

CINCINNATI, OHIO.

HALL'S SAFE AND LOCK COMPANY,

MANUFACTURERS OF

HALL'S

NEVER ROBBED!

Dove-Tailed, Burglar-Proof

SAFES AND VAULTS.

STEEL JAIL WORK A SPECIALTY.

Plaintiff's exhibit No. 36. J. L. L. N. P. Filed, July 13, 1905.

BURNING OF NEVADA BLOCK,

The Glenn Estate's Building.

Saturday Night, January 25, 1890.

Burning of the Nevada Block.

HALL'S SAFE AND LOCK COMPANY'S

Standard Safes

Preserve Their Contents in Perfect Order.

OFFICE OF THE HENDERSON-ACHERT
LITHOGRAPHING COMPANY.
Cincinnati, Ohio, January 27, 1890.

Hall's Safe and Lock Co., Cincinnati, Ohio:

Gentlemen—September, 1888, we purchased from your company one of your large No. 89 double-door Fire-proof Safes, with inside doors. This safe we had placed in our office in the seventh story of the Glenn Building, situated on the southeast corner of Fifth and Sycamore streets. Saturday evening, January 25, the said building was entirely destroyed by fire. The building being seven stories was subdivided and occupied by some twelve to fifteen different companies—all classes of business, manufactur- &c., many of them using combustible materials of the highest nature.

The fire burned during all of Saturday night. Our Safe fell from the seventh floor to the fourth floor, where it lodged on some iron supports and remained there until removed by us to-day. The fact of the entire building being destroyed, the contents, as stated, being of a very combustible character, made a perfect furnace, the heat being intense. Upon opening the safe we found the lock to operate all right. The plates on the outside of the doors were warped by the intense heat. When the safe was removed from the ruins, judging by its outward appearance, we felt very dubious as to the condition of its contents.

Upon opening the safe, we found much to our surprise the entire contents in perfect shape,—in fact in as complete order as when placed therein. We can not express in too strong language the high appreciation we feel. Assuredly a severer test could not have been made or desired, and the fact of the safe bringing its contents through in such perfect order, is in our opinion satisfactory evidence that the Hall Safe is what you claim it to be,—that is, an absolute protection against loss by fire. We are, very respectfully,

The Henderson-Achert Lith. Co.,
W. D. Henderson, President.

OFFICE OF FABER & DUNCAN,
Manufacturers of Paper Boxes.

We, the undersigned, having in use one of your Fire-proof Safes, which passed through the extraordinary fire in the Nevada Block, are pleased to add our certificate to that of the Henderson-Achert Lithographing Company.

Our Safe was of your make, and preserved its contents in perfect condition. On opening the Safe there was not a blemish, and we can not express our satisfaction too strongly in behalf of the merits of your work.

Faber & Duncan.

—Time-Tried and Fire-Tested—

UNPARALLELED RECORD OF

HALL'S SAFES

119 HALL'S STANDARD SAFES

Pass successfully the ordeal of the terrible fires at Seattle, Spokane Falls, Haley, Idaho, Boston, Lynn, Marblehead, Holyoke and Cincinnati.

Hall's Safe and Lock Company's

—Never Burned, Never Robbed, Standard Safe—

CONTRACTORS FOR
UNITED STATES TREASURY WORK.

Hall's Safe and Lock Company,

FACTORY AND PRINCIPAL OFFICE: CINCINNATI.

Salesrooms: New York City; Portland, Me.; Boston, Philadelphia, Cleveland, Chicago, Louisville, St. Louis, Kansas City, Omaha, Minneapolis, St. Paul, New Orleans, San Francisco, Los Angeles, San Diego; Portland, Ore.; Nashville, Tenn.; Milwaukee, Wis.; Atlanta, Ga.; Evansville, Ind.; Seattle, W. T.

—THE GREAT SEATTLE FIRE—

HALL'S STANDARD SAFES

The ONLY Absolute Reliable Safe in the World, and the ONLY Safe which Stood the Test!

The Great Seattle Fire Thoroughly Demonstrates Their Superiority. The Universal Verdict:

"HALL'S STANDARD SAFES ALWAYS PROTECT THEIR CONTENTS."

Office of A. P. HOTALING CO.
Importers and Wholesale Liquor Dealers.
Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—The 10,000 lbs. fire-proof safe of your make, in use in our office during the late disastrous fire, stood an unprecedented test. The safe fell into the cellar, and was in the midst of 275 barrels of burning whisky and spirits, a heat simply immense. The safe was opened after the fire by the combination locks, and to our great surprise, everything inside was as fresh as when put into it, books, papers, etc., not having even the smell of smoke. A fancy linen lamp mat, put in the safe (which was a keepsake), was taken out of safe as fresh as if just bought new. This safe must have had five times the heat of any safe in the fire. We cannot express too loudly our satisfaction, and would advise buyers to use Hall's Safes.

Yours respectfully,
(Signed,) THE A. P. HOTALING CO.
J. C. Nixon, Manager.

GORDON HARDWARE CO.
Jobbers of Hardware.
Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—We have just taken out of the ruins our large double-door Hall's Safe, with burglar chest, which passed through the great fire of June 6, 1889. The safe was red hot for four days; one side was entirely melted off, and melted hardware was clinging to the walls of the safe. We consider this the most severe test any safe was subjected to. We found the contents well preserved, and the books, etc., are in use as before the fire. You can count upon us for a new safe when ready for purchase. Yours truly,

(Signed,)
GORDON HARDWARE CO.
Geo. B. Adair, Treas.

THE WESTERN UNION TELEGRAPH CC
Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—The single-door Hall's Safe that we had in the great fire of June 6, 1889, preserved its contents in perfect order. Not a single paper was even scrorched, and we gladly recommend your make of safes to any one desiring absolute security.

Yours respectfully,
(Signed,) WESTERN UNION TEL. CO.

Office of ANDREW SLORAH.
Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—I had one of your $75 fire-proof safes in the fire of June 6, and, to my surprise, the safe opened

on the combination, and all papers, money and silver, and even my gold watch, were as perfect as when I closed the door. After winding up the watch it was as good as ever. I shall want another when I get opened up again, and will gladly recommend the Hall's Safe to my friends. Yours, etc.,

ANDREW SLORAH.

Office of J. SCHRAM,

Wholesale and Retail Dealer in Stoves, Tinware, Etc.

Commercial St.,

Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—I had one of your folding-door safes in the great fire of June 6, and on opening it, some days after the fire, found all the contents in first-class order, and not a paper was scorched. We have this day ordered another safe from your agent, and hope you will ship at once. Yours respectfully,

(Signed,) J. SCHRAM.

Office of FISHER, Architect.

Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—I am very much gratified on opening my No. 58 Fire-Proof Safe (bought of you some time ago), to find everything in a state of perfect preservation, not a paper showing the least sign of being in the great fire of June 6. My tracings and plans are as good as new. Have ordered another safe of you by telegraph, same size. Please ship at once. I will take great pleasure in recommending the Hall's Safe to all architects, knowing them to be absolutely fire-proof and the only safe for our profession to use.

Yours respectfully,

(Signed,) E. H. FISHER, Architect.

Seattle, W. T., June 14, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—We had one of your double-door fire-proof safes in our market, and known as "The People's Market," which was in the fire June 6. We got the safe out of the ruins Tuesday, June 11. The safe opened on the combination, and we found all our books and papers in a perfect state of preservation. We cannot speak too highly of your safes.

(Signed,) SMITH BROS. & BUTLER.

Seattle, W. T., June 13, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—We had one of your No. 54 Safes with burglar chest. It was in the great fire of June 6, 1889, and was exposed to a red-hot heat from the afternoon of June 6th until the morning of the 9th. We opened it by the combination, and found books and papers in good condition. Currency that was in the silver drawer showed no evidence of the exposure. We gladly recommend the safe. For ourselves we would use no other. Very truly,

(Signed,) G. KELLOGG & CO.

SEATTLE MEAT MARKET.

Wholesale Dealers in Beef, Pork, Mutton.

Seattle, W. T., June 14, 1889.

TO WHOM IT MAY CONCERN:

Our Hall's Safe, after passing through two fires (the first at Portland, at Esmond Hotel, and the last in Seattle Market, on Commercial Street, June 6, 1889), came through with books and money in first-class condition. Yours respectfully,

SEATTLE MEAT MARKET,

A. E. Borton.

Seattle, W. T., June 15, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—We had one of your No. 78 Jeweler's Steel-lined Safes in the great fire of June 6, and when we opened the safe, found the contents in perfect order. We gladly recommend your make of safes as affording absolute security for jewelry, papers, books, etc., and for ourselves would use none other.

Yours truly,

BARTO & GODFREY.

CHAS. F. FRASCH,

Importer and Dealer in Groceries and Provisions.

Seattle, W. T., June 12, 1889.

HALL'S SAFE & LOCK CO.

Gentlemen:—We had one of your make of safes in the great Seattle fire June 6. We removed all our books, but in our hurry forgot some currency, a watch and some papers that were in the little iron cash box. When the safe was lifted out to-day, we were surprised to find the contents in excellent condition, as the safe was unlocked when it fell. I

have this day ordered a new safe from your agent, as I would use none other. Please ship same as soon as possible, and greatly oblige.

Yours truly,
(Signed,) CHAS. F. FRASCH.

Seattle, W. T., June 14, 1889.
HALL'S SAFE & LOCK CO.

Gentlemen:—Some fifteen years ago I bought a Hall's Safe, with burglar chest, and after five days in the fire of June 6, I got out the safe, and found, to my surprise and gratification, the safe in perfect condition. The safe was covered with burning walls for five days. I consider the safe stood a wonderful test. I opened it on the combination after the third trial. I will certainly very cheerfully recommend your safes to all who wish anything of the kind. (Signed,) M. A. KELLY.

Also, are the Manufacturers of

Hall's Never-Robbed Dove-Tailed Burglar-Proof Safes.

Hailey, Idaho, July 5, 1889.
HALL'S SAFE AND LOCK CO.

Gentlemen:—We, the undersigned, citizens who were using your safes at the time of the disastrous conflagration of the 2d instant (July, 1889), which destroyed the business portion of our town, cheerfully bear witness to their fire-proof qualities, as everything they contained was, to our great satisfaction, found intact.

We therefore most cordially recommend your safes to all parties who want absolute fire protection.

H. F. Stewart, Agent Pacific Express Co.
J. P. Cliff, Hardware.
Willman & Walker, General Merchandise.
J. M. Burkett, Cashier First National Bank.
E. H. Hendrick, Jeweler.
C. D. Campbell, Liquor Dealer.
Warren & Shepperd, Liquors.
N. J. Brown, M. D.
W. H. Watt, Mining Secretary.
Jos. B. Oldham, per Lemmon & Boone, Agents.
J. A. Loggs, Liquors, etc.

THE SAFE FOR JEWELERS.

Hailey, Idaho, July 5, 1889.
HALL'S SAFE AND LOCK CO.

Sirs:—I cheerfully endorse every word in the above, and wish to add my experience in the same fire. Burned out here a few years ago, and my stock ruined in other safes, I resorted to the use of a "Hall No. 76, Jeweler's," and kept my gold and silver watches in them. Burned out the night of July 1-2, 1889. I hardly dared open the safe, and really could not, because of the heat, for 36 hours after the fire ended. I took out the paper boxes, got the watches out of them, wound them, and they began running as accurately as ever! The cases—both the gold and the silver ones—were not even tarnished. My goods are therefore in excellent condition. Jewelers know what that means.

Very truly yours,
E. H. HENDRICK.

Bakersfield, Cal., July 13, 1889.
HALL'S SAFE AND LOCK CO.

Gentlemen:—We, the undersigned, having your safes, during the terrible fire of July 7th, wish to add our testimony to the already high reputation of your work. In the fire unprecedented in the history of our city it is sufficiently high compliment to your safes to say they brought their contents out in good condition, notwithstanding the fact that in many cases they lay roasting in the burning debris for over sixty hours.

Yours very truly,
(Signed,) Milton Hall.
Lewis McKelvey.
J. Niederaur.
Hitt & Miller.
S. A. Burnap.
J. S. Drury.

Bakersfield, Cal., July 12, 1889.
HALL'S SAFE AND LOCK CO.

Gentlemen:—The single-door Hall's Safe that I had in the great fire of the 7th inst., after burning more than twenty-four hours, upon opening it I found the contents all in per-

fect order, and I gladly recommend it as the best safe in the market.

Yours very truly,
(Signed,) O. D. FISH.

Bakersfield, Cal., July 12, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—Wednesday I opened my safe, which lay roasting since Sunday the 7th, in a lot of red-hot brick, but notwithstanding the immense heat, which I consider by far the hottest part of the fire, that consumed the whole business portion of our city, I found the contents all in perfect order. I cannot conceive a more severe test for a safe than this underwent, and I cheerfully recommend the Hall's Safe as the best in America. Yours truly,

(Signed,) PAUL GATES.

Bakersfield, Cal., July 12, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—In the disastrous fire on the 7th inst., in which the whole business portion of our city was completely destroyed, we had in use two of Hall's Safes, which proved true to their trust and brought out their contents all in perfect condition, and we cheerfully recommend the Hall's Safe & Lock Co.'s Safes to any who may want reliable fire-proof protection.

Yours very truly,
(Signed,) KEAN VALLEY BANK,
H. A. Blodget, Manager.

Bakersfield, Cal., July 12, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—We had one of your No. 93 folding-door fire-proof safes in the great fire of the 7th, and on opening it found the contents all in perfect condition. We consider their preservation very remarkable as the safe lay for three days in a bed of red-hot brick. We cheerfully recommend the Hall's Safe to the public; at least it is good enough for us.

Very truly yours,
(Signed.)
HOUGHTON & LIGHTNER.

Fresno, Cal., July 17, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—We had one of your small single-door fire and burglar proof safes which passed through the disastrous fire on the 12th inst. We were exceedingly gratified, upon opening the safe, to find the contents the same as before the fire, it not having been injured in the least. We opened our safe on the combination, while some safes of other makes had to be broken open. We can most cheerfully recommend your safes as strictly first-class.

Yours truly,
(Signed,) McCONNELL & HAGUE.

Office of D. P. SNELL, Liveryman.

Mound City, Mo., August 21, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—On July 31, about 2 a. m., my livery barn and contents were entirely destroyed by fire, including fourteen head of horses. I had on hand my usual supply of feed. In the office I had one of your little No. 74 fire-proof safes. The corn bin adjoined the office, and the oats were stored over the office, all of which burned around the safe, making the same red-hot all over. As soon as we could get a chain around the safe, it was dragged to the street to cool. I was actually afraid to open the safe, dreading the consequences. I had but little hopes of the contents being saved. Some friends opened the safe after it had cooled, and much to my gratification the contents—books and papers—were found in perfect condition. I am perfectly satisfied with the work the safe has done. As an evidence of faith in your safes I have this day placed my order with your Mr. Lane for another safe.

(Signed,) D. P. SNELL.

I saw the above safe opened and contents perfect.

(Signed,) I. D. NEWTON.

I saw the safe in the fire in a red-hot condition.

(Signed,) ROBERT M. MARTIN.

OHIO STATE JOURNAL.

Columbus, O., July 29, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—We enclose you testimonial from the German Furniture Co., recently destroyed by fire. The fire in question was one of the most destructive ever experienced in this city. Th building and contents were so completely destroyed that absolutely nothing was saved. One of your safes, 31 x 36 x 75, was in the center of the building and exposed to the worst of the flames, but came out without even scorching the

wood-work or papers. We would suggest that it be properly written up in the Ohio State Journal and the enclosed testimonial published.

(Signed,) OHIO STATE JOURNAL.

GERMAN FURNITURE COMPANY.

Columbus, O., July 29, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—We were fortunate enough to have our books and papers in one of your valuable safes during the recent fire which totally destroyed the north part of the Breyfogle Block, July 17th. The loss was complete, not a stick remaining, and the fire the hottest and most uncontrollable ever experienced in this city, but your safe, which was in the fiercest of the flames, stood the test nobly, and the inside and contents were not even scorched. We congratulate you on your excellent work, and ourselves for having it.

(Signed,) GERMAN FURNITURE CO.
M. A. Dunigan, Manager.

Spokane Falls, W. T., Aug. 27, 1889.

HALL'S SAFE AND LOCK CO.

Gentlemen:—My Hall fire and burglar proof safe, No. 83, was in the Spokane fire on Sunday night (when the fire occurred) until Tuesday a. m. at 10:30, before I could get water on it. On Wednesday afternoon the safe was opened by the combination, and the contents all preserved. I have taken out the chest and am using it temporarily. With the exception of damage to the paint, it is apparently as good as new.

I am going East to spend the winter, and in the spring shall want a new Hall's Safe. What use can you make of the chest, and what value has it.

(Signed,) JACOB STRADER.

Also, are the Manufacturers of

Hall's Never-Robbed Dove-Tailed Burglar-Proof Safes.

Contractors for United States Treasury Work.

HALL'S SAFE & LOCK CO.

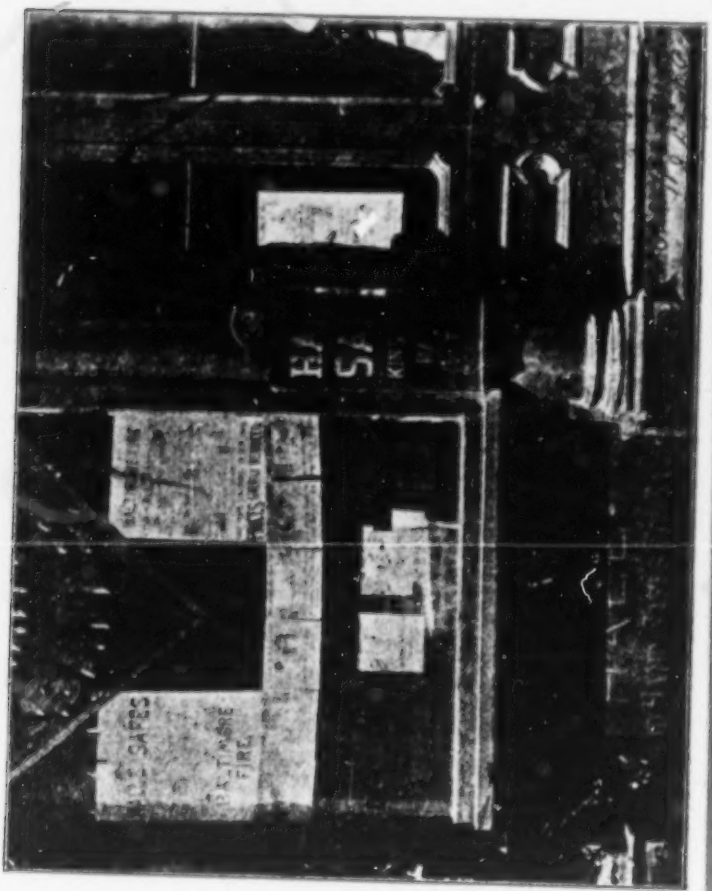
Factory and Principal Office: Cincinnati.

450

540

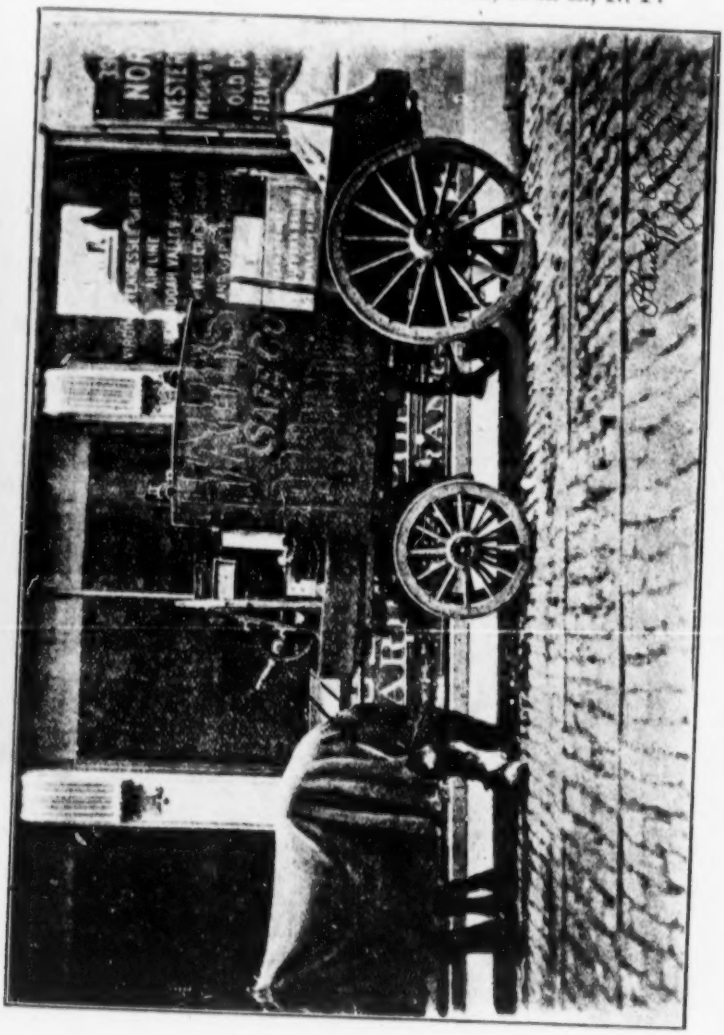
Endorsed: Plaintiff's Ex. No. 38, J. L. L., N. P.

Endorsed: Plaintiff's Exhibit 39. J. L. L., N. P.

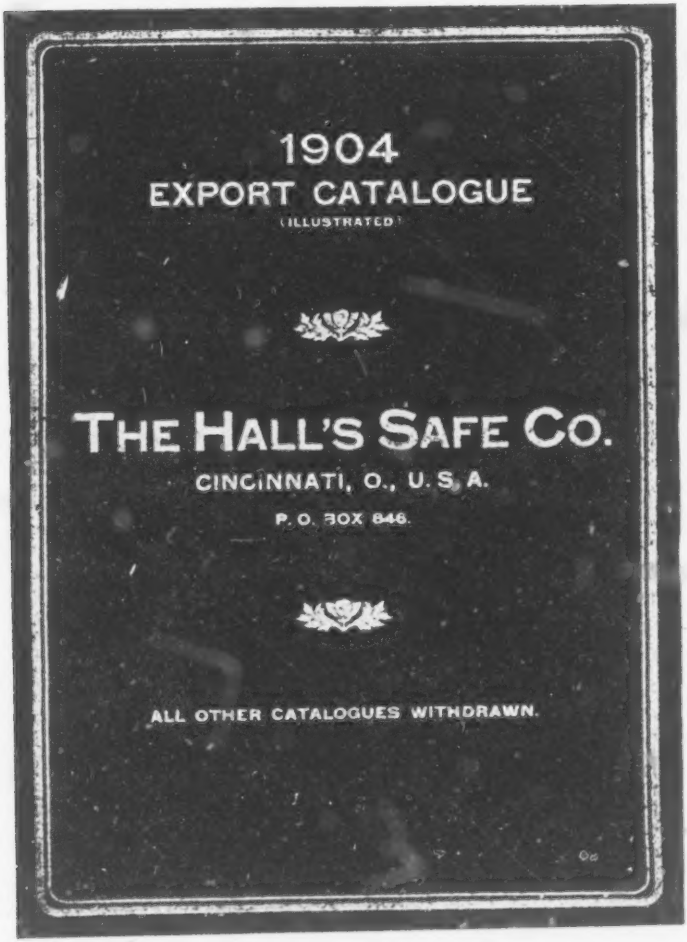


Endorsed: Plaintiff's Exhibit 40, J. L. L., N. P.

Endorsed: Plaintiff's Exhibit No. 41, J. L. L., N. P.



Endorsed: Plaintiff's Ex. No. 45, D. A. B. Filed July 13, 1905, B. R. Cowen, Clerk.



455

CATALOGUE

OF

High-Grade Fire-Proof Safes,

WITH AND WITHOUT

BANKERS' CHESTS, STEEL LININGS AND INTERIORS.

Latest Improved Square-Door Bank Safes,

WITH RESERVE CHESTS.

PATENT SCREW-DOOR BANK SAFES.

Export and Coin Safes, Express Messenger Boxes, Vault Fronts and Doors,

BANK AND SAFETY DEPOSIT VAULTS,
SAFETY DEPOSIT BOXES, ETC.

DRAWINGS AND ESTIMATES FURNISHED ON APPLICATION.

1904

ALL OTHER CATALOGUES WITHDRAWN

THE HALL'S SAFE COMPANY,

SPRING GROVE AVENUE, CINCINNATI, OHIO, U. S. A.

P. O. BOX 848

456

546

Filed July 13, 1905. B. R. Cowen, Clerk.

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

THE HALL'S SAFE CO., Cincinnati, O., U. S. A.

P. O. Box 848.

THE HALL'S SAFE COMPANY'S

"HIGH-GRADE" SAFES.

SINGLE-DOOR FIRE-PROOF SAFES.

(This Cut represents No. 208 Safe.)

Gentlemen: If you will make a selection from sizes of Safes on this sheet, and notify us on enclosed blank, we will quote you some very low prices for immediate delivery.

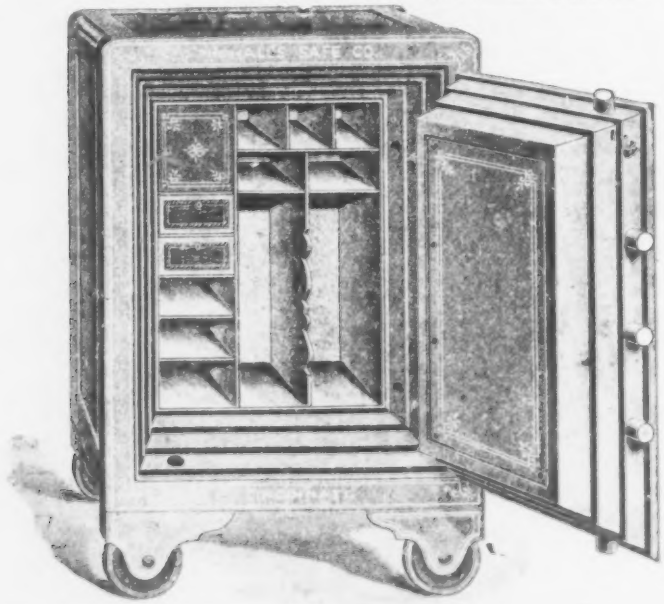
These Safes are made of the very best material and finest workmanship; having continuous steel sheets forming body of Safe, strengthened and fastened by steel angle front and back. Angles are mitred and bent hot and perfectly welded at the four corners.

In fact, everything pertaining to our Safes is first-class in every respect.

The "old reliable," The Hall's Safe Company's SAFES are known the world over as the best.

Trusting to hear from you, we are,

Yours respectfully,
THE HALL'S SAFE CO.



Combination Lock.

Dimensions of Safes.

	Outside Measure.			Inside Measure.			Approximate Weight.
No. 200—27½	x 16½	x 18 inches deep.	15	x 10	x 11	inches deep.	375 lbs.
No. 201—36	x 24	x 22 inches deep.	20	x 15	x 13	inches deep.	850 lbs.
No. 202—44	x 30	x 24 inches deep.	27	x 21	x 14	inches deep.	1350 lbs.
No. 203—35	x 22	x 22 inches deep.	16	x 10	x 11	inches deep.	900 lbs.
No. 204—37	x 24	x 23 inches deep.	17⅜	x 11¾	x 11½	inches deep.	1050 lbs.
No. 205—40	x 26	x 24 inches deep.	20	x 14	x 12	inches deep.	1335 lbs.
No. 206—42½	x 28	x 24 inches deep.	21¾	x 16	x 12	inches deep.	1520 lbs.
No. 207—44	x 30	x 25 inches deep.	24	x 18	x 12½	inches deep.	1650 lbs.
No. 208—46	x 31	x 25 inches deep.	26	x 19	x 13	inches deep.	1850 lbs.
No. 209—48	x 32	x 26 inches deep.	28	x 20	x 13½	inches deep.	2000 lbs.
No. 210—51½	x 33½	x 26 inches deep.	29¾	x 21	x 14	inches deep.	2270 lbs.
No. 211—53½	x 34½	x 26 inches deep.	32	x 22	x 14	inches deep.	2350 lbs.

The above Safes are also made with an inside door.

Catalogue, 1902.

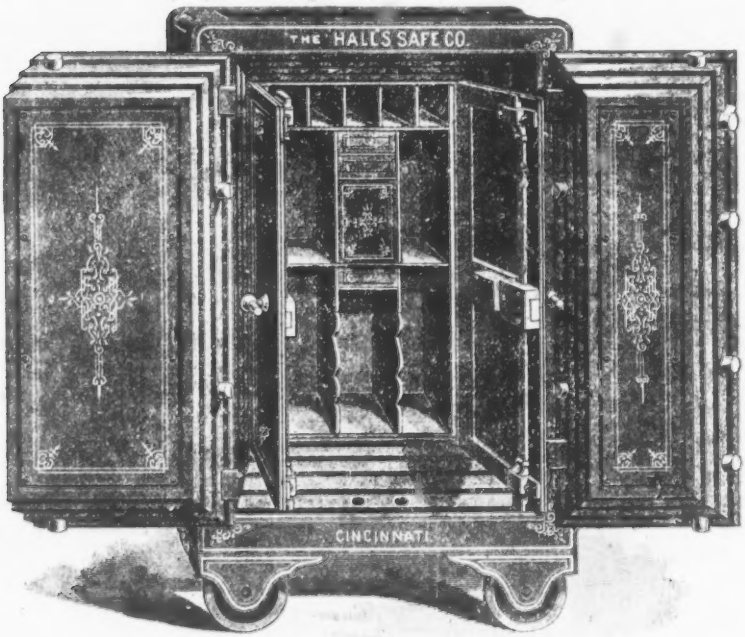
All Other Catalogues Withdrawn.

458

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.
THE HALL'S SAFE CO., Cincinnati, O., U. S. A.
P. O. Box 848.

DOUBLE-DOOR FIRE-PROOF SAFES.

(This Cut represents No. 317 Safe.)



Combination Lock.

Dimensions of Safes.

	Outside Measure.	Inside Measure.	Approximate Weight.
No. 312—	55½ x 34½ x 29 inches deep.	33¾ x 21¾ x 15 inches deep.	2850 lbs.
No. 313—	49 x 36 x 28 inches deep.	27¾ x 23¾ x 14 inches deep.	2700 lbs.
No. 314—	53 x 38 x 29 inches deep.	32 x 25¾ x 15 inches deep.	2950 lbs.
No. 315—	57 x 40 x 29 inches deep.	36 x 27¾ x 15 inches deep.	3320 lbs.
No. 316—	60¾ x 44 x 30 inches deep.	40 x 32 x 16 inches deep.	3950 lbs.
No. 317—	61 x 34 x 30 inches deep.	39¾ x 22 x 16 inches deep.	3150 lbs.
No. 318—	69 x 51 x 30 inches deep.	45¾ x 37¾ x 16 inches deep.	5150 lbs.
No. 319—	71 x 39 x 30 inches deep.	47¾ x 25¾ x 16 inches deep.	4350 lbs.
No. 320—	77¼ x 59½ x 32 inches deep.	54 x 46 x 18 inches deep.	7100 lbs.
No. 321—	86¼ x 68½ x 34 inches deep.	62 x 54 x 19 inches deep.	9100 lbs.
No. 322—	73½ x 45½ x 30 inches deep.	50 x 31¾ x 16 inches deep.	4850 lbs.
No. 323—	79 x 51 x 30 inches deep.	55¾ x 37¾ x 16 inches deep.	5900 lbs.

The above Safes are also made without inside doors.

Catalogue, 1902.

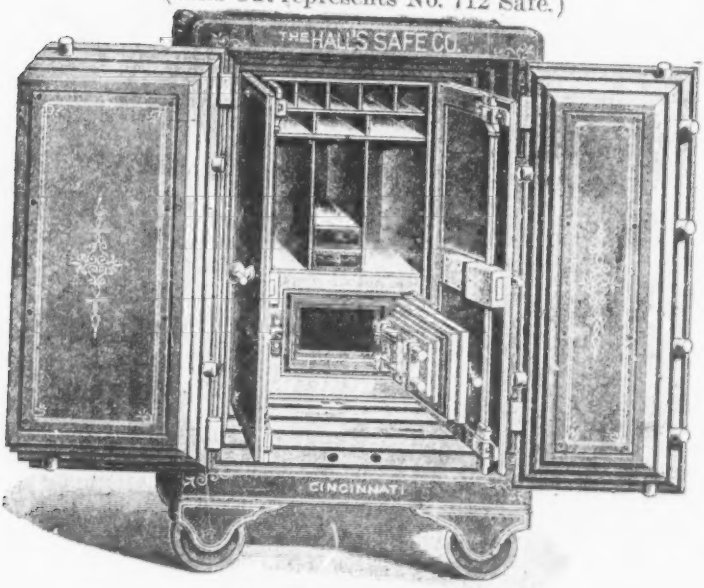
All Other Catalogues Withdrawn.

459

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

THE HALL'S SAFE CO., Cincinnati, O., U. S. A.
P. O. Box 848.

DOUBLE-DOOR FIRE-PROOF SAFES.
With Bankers' Steel Chest.
(This Cut represents No. 712 Safe.)



Combination Lock.

Dimensions of Safes.

	Outside Measure			Inside Measure.			
No. 712—	65½	x 34½	x 29 inches deep.	23⅜	x 21¾	x 15	inches deep.
No. 714—	53	x 28	x 29 inches deep.	22	x 25¾	x 15	inches deep.
No. 715—	57	x 40	x 30 inches deep.	36	x 27⅜	x 15	inches deep.
No. 716—	60¾	x 44	x 30 inches deep.	40	x 32	x 16	inches deep.
No. 717—	61	x 34	x 30 inches deep.	29¾	x 22	x 16	inches deep.
No. 718—	69	x 51	x 34 inches deep.	45¾	x 37¾	x 17½	inches deep.
No. 719—	71	x 39	x 30 inches deep.	47¾	x 25¾	x 16	inches deep.
No. 720—	77½	x 59½	x 34 inches deep.	54	x 46	x 18	inches deep.
No. 721—	86½	x 68½	x 36 inches deep.	62	x 54	x 19	inches deep.
No. 722—	73¾	x 45½	x 39 inches deep.	50	x 31⅜	x 16	inches deep.
No. 723—	79	x 51	x 34 inches deep.	55¾	x 37¾	x 16	inches deep.

Outside Measure. Chest.				Approximate Weight of Safe.	Inside Measure.			
No. 712—	14	x 21¾	x 12 inches.	3675 lbs.	No. 718—	16	x 37¾	x 16 inches.	6350 lbs.
No. 714—	12	x 25¾	x 12 inches.	3725 lbs.	No. 719—	16	x 25¾	x 14 inches.	5350 lbs.
No. 715—	14	x 27⅜	x 13 inches.	4220 lbs.	No. 720—	20	x 46	x 17 inches.	8300 lbs.
No. 716—	16	x 32	x 13 inches.	5100 lbs.	No. 721—	22	x 54	x 18 inches.	10500 lbs.
No. 717—	14	x 22	x 13 inches.	4000 lbs.	No. 722—	16	x 31¾	x 13 inches.	6000 lbs.
					No. 723—	16	x 37¾	x 13 inches.	7600 lbs.

The above Safes are also made without inside doors.

Catalogue, 1902.
All Other Catalogues Withdrawn.

460

550

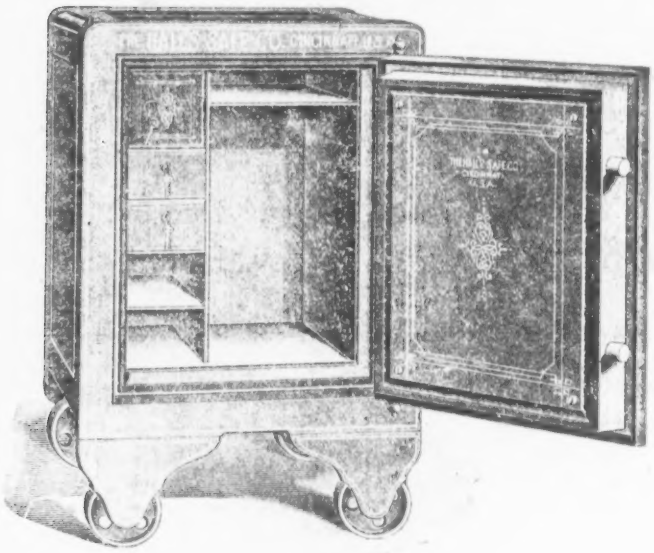
E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

THE HALL'S SAFE CO., Cincinnati, O., U. S. A.

P. O. Box 848.

HALL'S 20th CENTURY SAFES.

(This Cut represents Style No. 2.)



Combination Lock.

(Key lock if desired.)

Dimensions of Safes.

	Outside Measure.			Inside Measure.			Approximate Weight.
	High.	Wide.	Deep.	High.	Wide.	Deep.	
No. 1	32	x 21	x 19	19	x 15	x 12⅛	550 lbs.
No. 2	38	x 26	x 21	24	x 20	x 14⅝	775 lbs.
No. 3	45	x 30	x 23	30½	x 24	x 16½	1075 lbs.

The above Safes are also made with an inside door.

Catalogue, 1902.

All Other Catalogues Withdrawn.

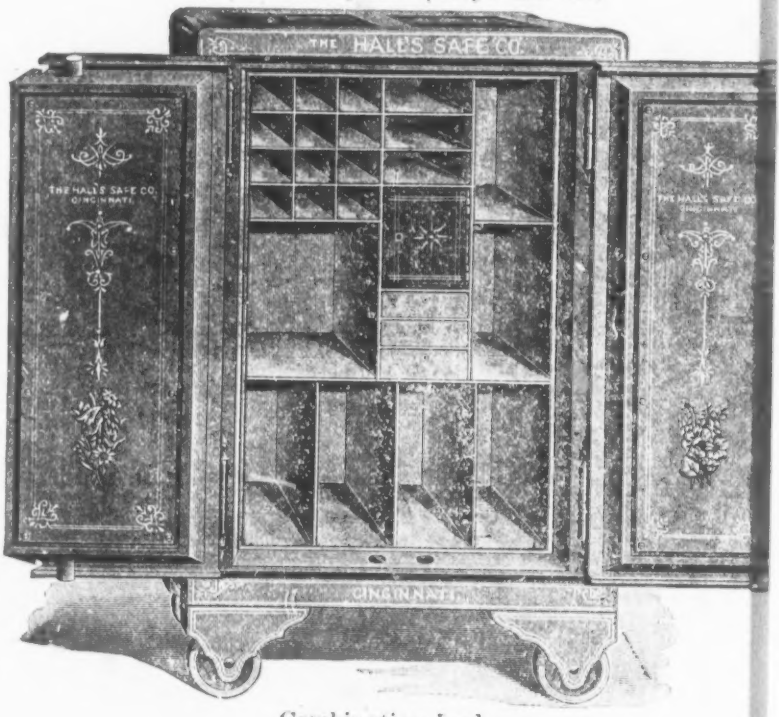
E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

THE HALL'S SAFE CO., Cincinnati, O., U. S. A.

P. O. Box 848.

HALL'S 20th CENTURY SAFES.

(This Cut represents Style No. 80.)



Combination Lock.
(Key lock if desired.)

Dimensions of Safes.

	Outside Measure. High.	Wide.	Deep.	Inside Measure. High.	Wide.	Deep.	Approximate Weight.
No. 60	55½	x 34	x 25	41½	x 28	x 18½	1500 lbs.
No. 70	61	x 34	x 26	47	x 28	x 20	1750 lbs.
No. 80	70	x 39	x 28	56	x 33	x 22	2500 lbs.
No. 90	77¼	x 50½	x 32	61	x 43¼	x 22	4300 lbs.

These Safes are also made with inside doors.

Catalogue, 1902.

All Other Catalogues Withdrawn

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

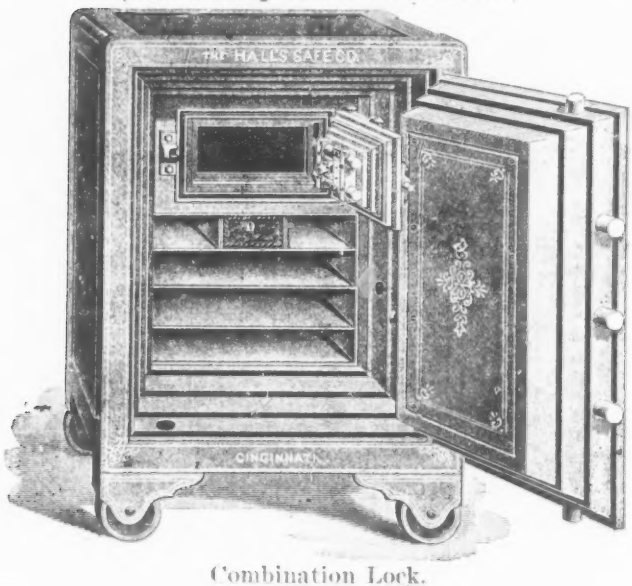
THE HALL'S SAFE CO., Cincinnati, O., U. S. A.

P. O. Box 848.

SINGLE-DOOR FIRE-PROOF SAFES.

With Bankers' Steel Chest.

(This Cut represents No. 608 Safe.)



Combination Lock.

Dimensions of Safes.

	Outside Measure.	Inside Measure.
No. 608—46	x 31 x 26 inches deep.	26 x 19 x 13 inches deep.
No. 609—48	x 32 x 26 inches deep.	28 x 20 x 13½ inches deep.
No. 610—51½	x 33½ x 26 inches deep.	29¾ x 21 x 14 inches deep.
No. 611—53½	x 34½ x 26 inches deep.	32 x 22 x 14 inches deep.

Bankers' Chest; Outside Measure	Approximate Weight.		
No. 608—12 x 19 x 12 in. deep.	2300 lbs.	No. 610—12 x 21 x 12 in. deep.	3000 lbs.
No. 609—12 x 20 x 12 in. deep.	2650 lbs.	No. 611—12 x 22 x 12 in. deep.	3190 lbs.

The above Safes are also made with an inside door.

Catalogue, 1902.

All Other Catalogues Withdrawn.

553

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

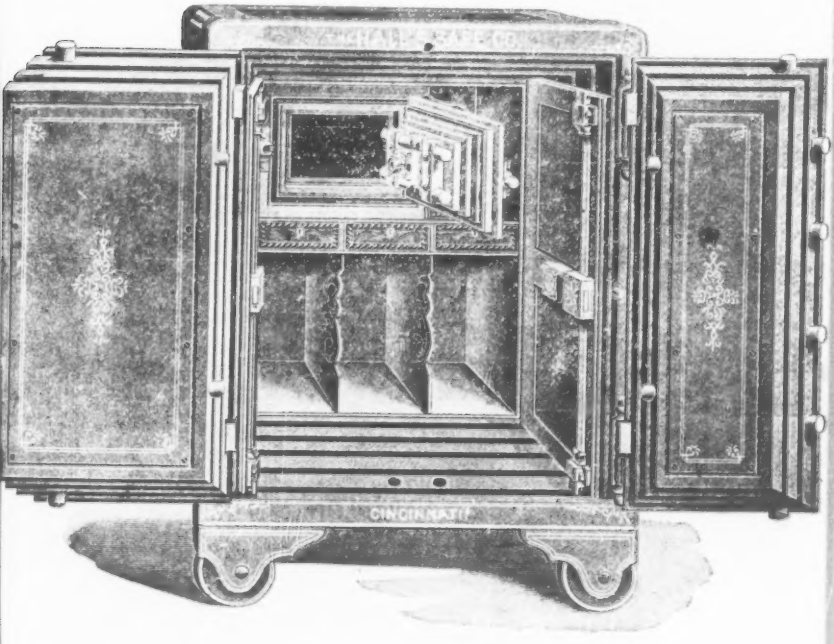
THE HALL'S SAFE CO., Cincinnati, O., U. S. A.

P. O. Box 848.

DOUBLE-DOOR FIRE-PROOF SAFES.

With Bankers' Steel Chest in upper left corner.

(This size Chest in all Safes numbered in 400 and 500.)



Dimensions of Safes.

	Outside Measure.	Inside Measure.	Approximate Weight.
No. 512—55½	x 34½ x 29 inches deep.	33¾ x 21¾ x 15 inches deep.	2500 lbs.
No. 513—49	x 36 x 28 inches deep.	28 x 23¾ x 14 inches deep.	3450 lbs.

Combination Lock.

No. 514—62	x 38	x 29 inches deep.	32	x 25¾ x 15 inches deep.	3625 lbs.
No. 515—67	x 40	x 29 inches deep.	36	x 27¾ x 15 inches deep.	4000 lbs.
No. 516—60¾	x 44	x 30 inches deep.	40	x 32 x 16 inches deep.	4550 lbs.
No. 517—61	x 34	x 30 inches deep.	29⅜	x 22 x 16 inches deep.	3700 lbs.
No. 518—66	x 51	x 30 inches deep.	45⅜	x 37⅜ x 16 inches deep.	5700 lbs.
No. 519—71	x 39	x 30 inches deep.	47¾	x 25⅜ x 16 inches deep.	5000 lbs.
No. 520—77½	x 59½	x 32 inches deep.	54	x 46 x 18 inches deep.	7500 lbs.
No. 521—86½	x 68½	x 34 inches deep.	62	x 54 x 19 inches deep.	9000 lbs.
No. 522—73½	x 45½	x 30 inches deep.	50	x 31⅜ x 16 inches deep.	5700 lbs.
No. 523—79	x 51	x 30 inches deep.	55⅜	x 37¾ x 16 inches deep.	6600 lbs.

The above Safes are also made without inside doors.

Catalogue, 1902.
All Other Catalogues Withdrawn.

E. C. Hall, Pres. S. F. Kemper, Sec'y.
Wm. Harry Hall, Treas.

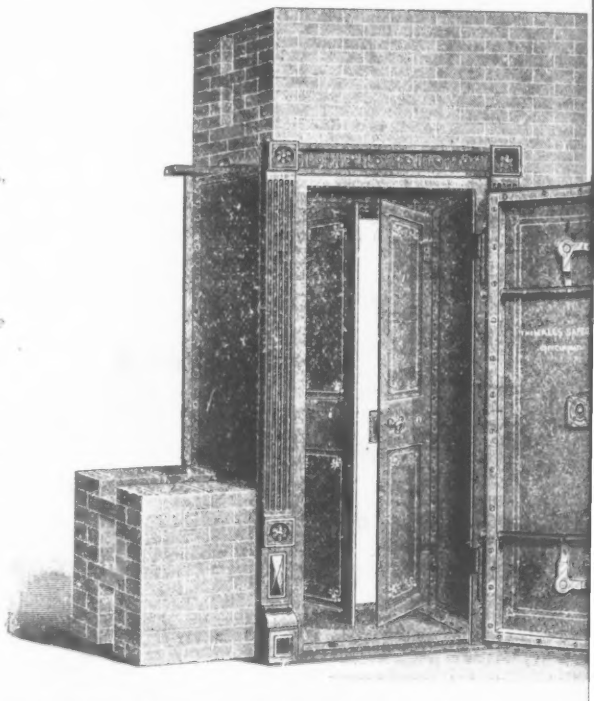
THE HALL'S SAFE CO., Cincinnati, O., U. S. A.
P. O. Box 848.

THE MOST APPROVED METHOD OF CONSTRUCTION OF FIRE-PROOF VAULTS.

STANDARD SIZE
FIRE PROOF VAULT FRONTS
MADE TO FIT OPENING IN WALL,

78½ inches high.
31½ inches wide.
Vestibule 20 inches deep.

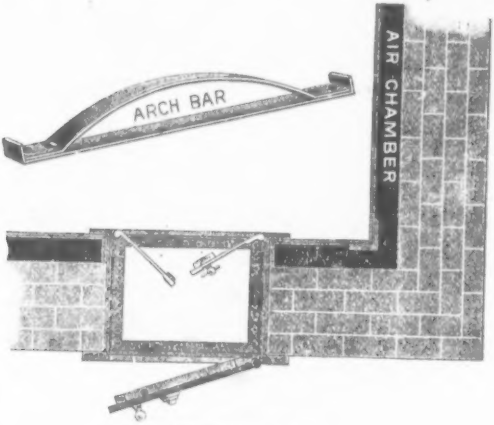
Numbers and Style of Bolt Work.	Approximate Weight.
No. 1—A bolt work.	600 lbs.
No. 1—AA bolt work.	620 lbs.
No. 2—B bolt work.	775 lbs.
No. 2—C bolt work.	900 lbs.
No. 2—D bolt work.	920 lbs.
No. 3—B bolt work.	890 lbs.
No. 3—C bolt work.	960 lbs.
No. 3—D bolt work.	980 lbs.
No. 4—B bolt work	825 lbs.
No. 4—C bolt work.	925 lbs.
No. 4—D bolt work.	945 lbs



Above cut represents a sectional view of our Fire Proof Brick Vault, showing Vault Front or Doors (No. 2—B bolt work) partly bricked in.

Opposite cut represents a sectional plan of a Fire Proof Vault with an Iron Lining and Air Chamber. This mode of construction we advocate as the best and recommend it to all parties who contemplate building vaults. It is not only an absolute protection against dampness, caused by condensation, but a positive protection against fire, as frequently the walls will crack through the intensity of the heat.

The Arch Bar is used in all cases for the support of the top of the vault and the bracing or strengthening of sides, answering the purpose of anchors.



Front is made so as to be set in position after the brick work and plastering are completed. Estimates furnished on Vault Fronts, Vault Linings and Arch Bars. Information furnished on application.

THE HALL'S SAFE CO.,
Spring Grove Avenue, Cincinnati, O., U. S. A.

Catalogue, 1902.

All Other Catalogues Withdrawn.

Endorsed: Plaintiff's Ex. No. 49, D. A. B.

HALL'S SAFES

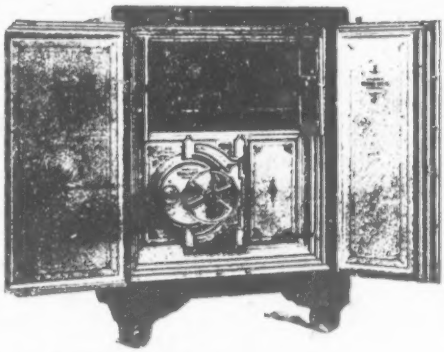
1840 In Existence 64 Years 1904

Howe Scale Co.

SELLING AGENTS

12 & 14 Pine St., San Francisco

Fire and Burglar Proof.



High Grade. High Finish.

Patent Screw Doors

Bankers' Safes

Safety Deposit Boxes

Bank and Safety Deposit Vaults

Drawings and Estimates Furnished on Application

F
MAI

Num

No. 1
No. 1
No. 2
No. 2
No. 2
No. 3
No. 3
No. 3
No. 4
No. 4
No. 4

Plaintiff's Ex. No. 51.

Herring-Hall-Marvin Company.

No. 91.

Solid Angel Welded Round Cornered

DOUBLE-DOOR FOUR-FLANGE
FIRE-PROOF SAFE

Patent Four-Tumbler Combination Lock.

With Or Without Inside Doors.

Dimensions of Safe.

Inside—54 x 46 x 18 inches deep.
Outside—78 x 59 1-2 x 35 inches deep.

Depth of Inside Safe is not in the Clear. Lock requires 1 1-4 in.

Herring-Hall-Marvin Company.

Arrangement of Cabinet Work No. 91 Safe.

EXPORT LIST.

Kinsey, Rainier & Thomson

(INCORPORATED)

393 BROADWAY, NEW YORK

U. S. A.

Hall's Fire-Proof and Burglar-Proof Safes

461

THE HALL'S SAFE COMPANY,

P. O. BOX 846.

SPRING GROVE AVENUE, CINCINNATI, OHIO, U. S. A.

Plaintiff's Exhibit 52. D. A. B.

Endorsed: Plaintiff's Ex. No. 54, D. A. B.

HALL'S
Safe & Lock Co.

SOLE MANUFACTURERS OF

HALL'S Dovetailed Burglar-Proof SAFES

Hall's Fire-Proof Safes.

DESIGNERS AND BUILDERS OF

Jeweler, Merchant & Family Safes.

Over 300,000 Hall's Safes In Use.

TIME TRIED,

BURGLAR AND FIRE TESTED.

Correspondence Solicited.

FACTORY AND PRINCIPAL OFFICE.

CINCINNATI, OHIO.

Endorsed: Plaintiff's Ex. No. 55, D. A. B.

	Age in years.	Population.	Wealth.	Debt.	Gov't Expenses, per annum.	Debt per ct. valuation.	Valuation per capita.	Products.
United States,...	100	50,150,000	$55,000,000,000	$1,800,000,000	$257,000,000	$3\frac{1}{4}$	$1,100	$6,679,864,100
Great Britain....	800	34 505,000	45,000,000,000	3,800,000,000	415,000,000	$8\frac{1}{2}$	1,300	3,525,845,000
France.....	1,100	37,166,000	40,000,000,000	4,000,000,000	650,000,000	10	1,080	
Germany.....	1,100	45,367,000	25,000,000,000	90,000,000	150,000,000	$3\frac{6}{10}$	550	3,946,429,000
Russia.....	350	82,400,000	15,000,000,000	2,000,000,000	600,000,000	$13\frac{5}{10}$	182	2,579,245,000
Austria.....	1,100	39,175,000	14,000,000,000	2,000,000,000	370,000,000	$14\frac{3}{10}$	357	1,912,534,500

The United States is—

The wealthiest nation in the world.
The largest producer of agricultural products.
The largest producer of manufactures.

Average wealth per capita,.....	$671 13
" debt "	47 40
" gov't expense per capita	8 45
" per ct. gov't expense of valu'n,	7 per ct.

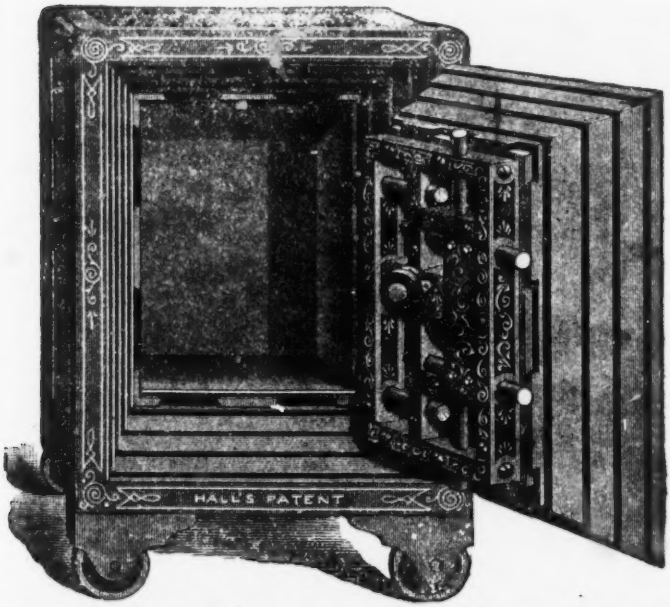
HALL'S SAFES PROTECT MORE WEALTH THAN ALL OTHERS COMBINED.

360

Endorsed: Plaintiff's Ex. No. 56, D. A. B.

HALL'S SAFE & LOCK CO.

JEWELER SAFES.



HALL'S SAFES ARE THE BEST.

Repairing and Putting on Combination Locks,

ALSO

A Large Line of SECOND HAND SAFES in First Class Order.

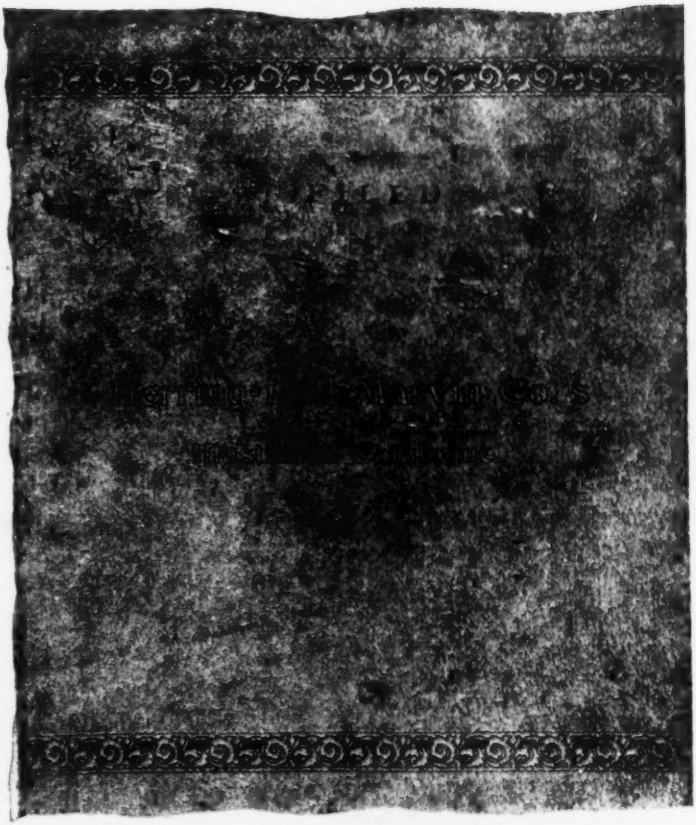
SAFES SOLD ON THE INSTALLMENT PLAN.

FACTORY AND PRINCIPAL OFFICE,

CINCINNATI, OHIO.

SALESROOMS:

New York City; Portland, Me.; Boston; Philadelphia; Cleveland; Chicago; Louisville; St. Louis; Kansas City; Omaha; Minneapolis; St. Paul; New Orleans; San Francisco; Los Angeles; San Diego; Portland, Oreg.; Nashville, Tenn.; Richmond, Va.; Milwaukee, Wis.; Evansville, Ind.; Atlanta, Ga.



473

HERRING-HALL-MARVIN CO.

CATALOGUE

.....OF.....

FIRE-PROOF SAFES

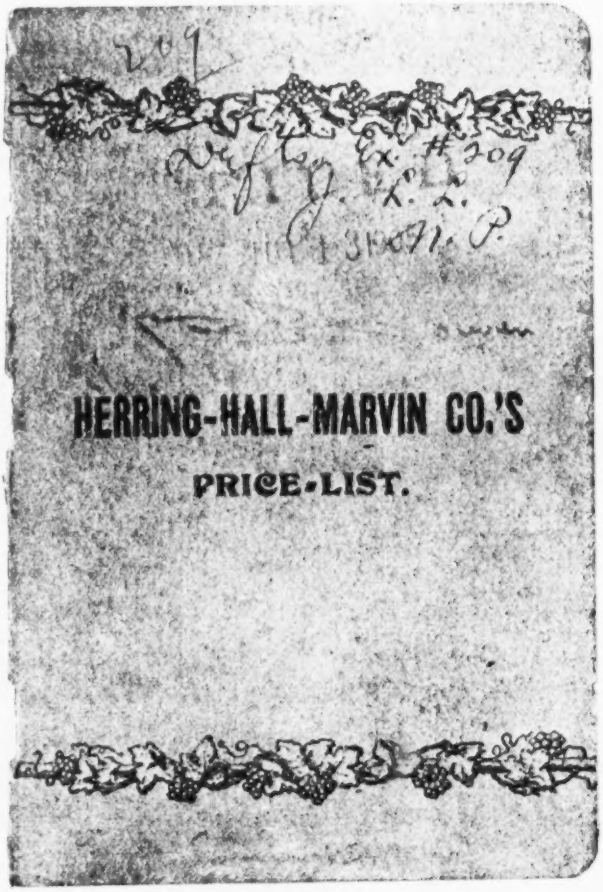
.....WITH AND WITHOUT.....

BANKERS CHESTS,
STEEL LININGS,
AND INTERIORS.

SOUTH AMERICAN, EXPORT, SKELETON OR COIN, HOUSE AND WALL SAFES, EXPRESS MESSENGER BOXES VAULT FRONTS.

SAFETY DEPOSIT BOXES, ETC.

1897.


HERRING-HALL-MARVIN CO.'S
PRICE-LIST.

475

PRICE-LIST

Herring-Hall-Marvin Co.

FIRE-PROOF SAFES.

WITH AND WITHOUT

BANKERS' CHESTS,
STEEL LININGS
AND STEEL INTERIORS.

SOUTH AMERICAN, EXPORT,
SKELETON OR COIN SAFES,
HOUSE AND WALL SAFES.

EXPRESS MESSENGER BOXES,
VAULT FRONTS AND DOORS,
SAFETY DEPOSIT BOXES, ETC.

1897.

Endorsed: No. 223, D. A. B.

Cin'ti, O., Oct. 3rd, 1892. 189

Messrs. A. L. Deane & Co.,
Chicago, Ills

HERRING-HALL-MARVIN CO.

Endorsed: Deft. Ex. No. 224, D. A. B.

Cincinnati, Ohio, Oct. 7th, 1892. 189

Messrs. A. L. Deane & Co.,

Chicago, Ill.

HERRING-HALL-MARVIN CO.

FILED
JUL 13 1892

Messrs A. L. Deane & Co.
Chicago. Ill.

Q. A. B.

Endorsed: Deft. Ex. No. 226. D. A. B.

Cincinnati, O., July 7th, 1877. 189

W. H. Hall, Esq.,

c/o The Hall's Safe Co., Cincinnati, Ohio

HERRING-HALL-MARVIN CO.

E. T. Mullen
Secy

478

Endorsed: Deft. Ex. No. 227, D. A. B.

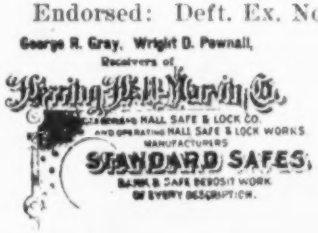
Hamilton Ohio Dec. 9/97.

A. L. Deane & co.

Chicago, Ill

HERRING-HAL--MARVIN CO.

Endorsed: Deft. Ex. No. 228, D. A. B.



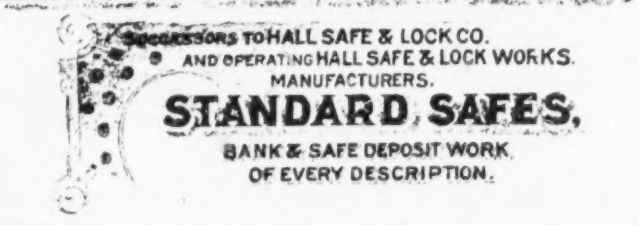
Hamilton, O., July 18th, 1898.

The Hall's Safe Company,

Cincinnati, O.

George R. Gray, Receivers of
Wright D. Pownall, Herring-Hall-Marvin Co.

Endorsed: Deft. Ex. No. 229, D. A. B., D. H. P., N. P.
Filed July 13, 1900, B. R. Cowen, Clerk.


HERRING-HALL-MARVIN SAFE CO.
SUCCESSORS TO HALL SAFE & LOCK CO.
AND OPERATING HALL SAFE & LOCK WORKS.
MANUFACTURERS.
STANDARD SAFES,
BANK & SAFE DEPOSIT WORK
OF EVERY DESCRIPTION.

Endorsed: Deft's. Ex. No. 286, D. H. P., N. P.

Cin. O., June 23rd, 1892 189

HERRING-HALL-MARVIN Co.
FACTORY & PRINCIPAL OFFICE
CINCINNATI.

To Messrs. A. L. Deane & Co.,
Chicago, Ills.

In reply to your favor of _____ 189

HERRING-HALL-MARVIN CO.

Endorsed: Deft's. Ex. No. 287, D. H. P., N. P.

COLLECTION DEPARTMENT
— OF THE —

Herring-Hall-Marvin Co.

No. 185 West Pearl Street,

ADDRESS,
HERRING-HALL-MARVIN CO.
CINCINNATI, O.

Cincinnati, O. Dec 31 1892

Mess A. L. Deane & Co
Chicago Ills

Herring-Hall-Marvin Co.

Per _____

Endorsed: Deft's. Ex. No. 288, D. H. P., N. P.

Jany 19 1893

To _____

E. C. Hall Esq

HERRING-HALL-MARVIN Co.
PRINCIPAL OFFICE
CINCINNATI. Factories, CINCINNATI, NEW YORK, PHILADELPHIA

JUL 1 1893

Yours R. Town

480

570

Philada Sept 14 1896

HERRING-HALL-MARVIN CO.

PRINCIPAL OFFICE CINCINNATI

FACTORIES { CINCINNATI, NEW YORK, PHILADELPHIA

To Hall's Safe Co
Cincinnati
Ohio

In reply to your favor of 28 9 1896

Walter Ryan

Endorsed: Deft's. Ex. No. 290, D. H. P., N. P.

San Francisco, Sept. 17, 1894.

HERRING-HALL-MARVIN CO

609 MARKET STREET

PRINCIPAL OFFICE CINCINNATI

FACTORIES { CINCINNATI, NEW YORK, PHILADELPHIA

To R. T. Pullan, Esq.,
Cincinnati,
Ohio.

In reply to your favor of 189

Yours very truly

J. L. Gustin

Endorsed: Deft's. Ex. No. 291, D. H. P., N. P.

Cuita Mexico 12/1894

HERRING-HALL-MARVIN CO.

PRINCIPAL OFFICE CINCINNATI.

FACTORIES { CINCINNATI, NEW YORK, PHILADELPHIA

To Messrs A. L. Diamond & Co
Chicago
Ills

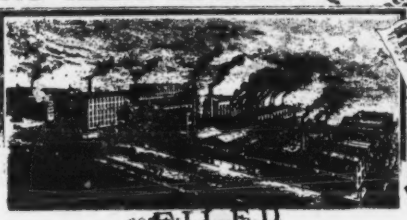
In reply to your favor of 189

HERRING-HALL-MARVIN CO.

FILED

JUL 1 1905

HERRING-HALL-MARVIN CO.



627 Chestnut Street.

Philadelphia, Pa. June 13th, 1895.

Mr. Jos. Searage

Superintendent - #6029 Chestnut St. Philada. Pa.

FARRELL SAFE WORKS

Wallen Ryan

Manager.

Cin. O., June 18th, 1895. 189

To Messrs. A.L. Deane & Co.,

Chicago, Ills.

HERRING-HALL-MARVIN CO.

PRINCIPAL OFFICE, CINCINNATI. Factories, CINCINNATI, NEW YORK, PHILADELPHIA.

In reply to your favor of ____ 189

HALL'S SAFE & LOCK WORKS.

Endorsed: Deft's. Ex. No. 295, D. H. P., N. P.

Cin.O., June 19th, 1895 189

To Messrs. A.L. Deane & Co.,

Chicago, Ills.

HERRING-HALL-MARVIN CO.

PRINCIPAL OFFICE, CINCINNATI. Factories, CINCINNATI, NEW YORK, PHILADELPHIA.

In reply to your favor of ____ 189

Very respectfully,

HALL'S SAFE & LOCK WORK

Endorsed: Deft's. Ex. No. 296, D. H. P., N. P.

Cincinnati, O., Dec. 21 1896.

To W. H. Hall, Esq.,

Glendale, Ohio.

HALL'S SAFE & LOCK WORKS,

Principal Office and Factory:

CINCINNATI.

In reply to your favor of _____ 18__.

John S. Young

Endorsed: Deft's. Ex. No. 297, D. H. P., N. P.

Cincinnati, O., Dec. 21 1896.

To W. H. Hall, Esq.,

Glendale, Ohio.

HALL'S SAFE & LOCK WORKS

PRINCIPAL OFFICE AND FACTORY,

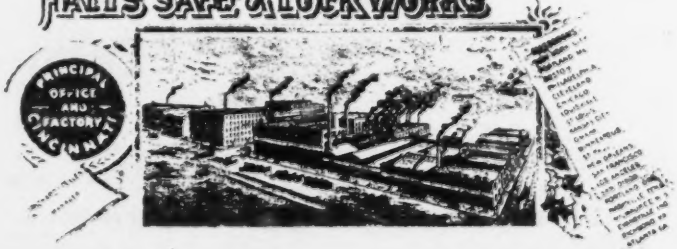
CINCINNATI.

In reply to your favor of _____

HALL'S SAFE & LOCK WORKS.

H. S. Cullen

HALL'S SAFE & LOCK WORKS



Cincinnati, O., Sept. 24, 1896. 459

W. H. Hall, Esq.,

Glendale, Ohio.

Hall's Safe & Lock Works.

H. S. Cullen

Endorsed: Deft's. Ex. No. 299, D. H. P., N. P.

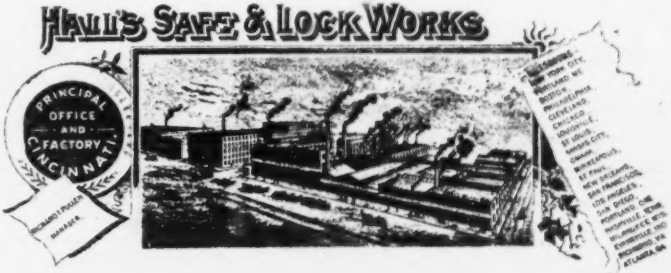
Cinti O Oct. 1896
Mr E C Hall
City

HALL'S SAFE & LOCK WORKS.
Principal Office and Factory
CINCINNATI

In reply to your favor of _____ 18__

HERRING-HALL-MARVIN CO.

Endorsed: Deft's. Ex. No. 300, D. H. P., N. P.

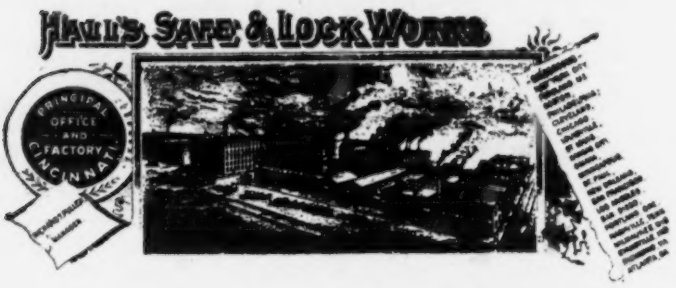


Cincinnati, O., Oct. 6, 1896. 189

W. H. Hall, Esq.,
Glendale, Hamilton Co., Ohio.

Hall's Safe & Lock Works.
H. S. Hall

Endorsed: Deft's. Ex. No. 301, D. H. P., N. P.



Cincinnati, O., Nov. 7th, 1896. 189

FILED

W. H. Hall, Esq.,

Chamber of Commerce Bldg., Cincinnati, O.

Hall's Safe & Lock Works

Manager.

Endorsed: Deft's. Ex. No. 302, D. H. P., N. P.

Cincinnati, O., Jan. 29, 1897.

To W. H. Hall, Esq.,

Cincinnati, Ohio.

HALL'S SAFE & LOCK WORKS.

PRINCIPAL OFFICE AND FACTORY.

CINCINNATI.

In reply to your favor of

HERRING-HALL-MARVIN CO.

Endorsed: Deft's. Ex. No. 303, D. H. P., N. P.

Cincinnati, O., Jan. 29, 1897.

To W. H. Hall, Esq.,

Cincinnati, O.

HALL'S SAFE & LOCK WORKS.

PRINCIPAL OFFICE AND FACTORY.

CINCINNATI.

In reply to your favor of

HERRING-HALL-MARVIN CO.

Endorsed: Deft's. Ex. No. 304, D. H. P., N. P.

SAFES. VAULTS LOCKS.

HERRING SAFE WORKS,

380 BROADWAY, E. T. FRANK O. HERRING, MANAGER.

NEW YORK. Dec 15th 1896

Mr. E. C. Hall
Cincinnati, Ohio

L. E. Marshall

Endorsed: Deft's. Ex. No. 305, D. H. P., N. P.

San Francisco, March 5, 1897.

To W. C. Hall, Esq.,
Cincinnati,
Ohio.

HERRING HALL MARVIN CO.
609-611 Market Street
SAN FRANCISCO, CAL.

Endorsed: Deft's. Ex. No. 306, D. H. P., N. P.

Hamilton, Ohio, Nov. 10th, 1897

To W. H. Hall, Esq.,
Cincinnati, Ohio

Dear Sir:-

HERRING-HALL-MARVIN CO.
OFFICE AND FACTORY:
CINCINNATI

In reply to your favor of

HERRING-HALL-MARVIN CO.

W. Rathbun

Endorsed: Deft's. Ex. No. 307, D. H. P., N. P.

Cincinnati, O., May 8th 1897

Mr. E. C. Hall

Dear Sir

I am

Yours very respectfully

Lewis Buck.

Dfts. 308

Cincinnati, O., May 27, 1897. 189

FILED

E. C. Hall, Esq.,

c/o The Hall's Safe Co., Cincinnati, O.

HERRING-HALL-MARVIN CO.

R. T. Fullen

Mgr.

J. G. GIESTING, Manager

San Francisco, July 29, 1897.

To The Hon. Board of Supervisors,

Tulare County,

Visalia, Cal.

Herring-Hall-Marvin Co.

MANUFACTURERS

SAFES,

LOCKS, TIME LOCKS, BANK VAULTS AND JAIL CELLS

609 MARKET ST., San Francisco, Cal.

FILED

JUL 1 3 1897

HERRING-HALL-MARVIN CO.

HERRING-HALL-MARVIN CO.

J. G. Giesting

Manager

Endorsed: Deft. Ex. No. 340, D. A. B., D. H. P., N. P. Filed July 13, 1905. B. R. Cowen, Clerk.

THE HALL'S SAFE COMPANY,

SPRING GROVE AVENUE,
CINCINNATI, OHIO, U. S. A.

P. O. Box 846.

1902

ALL OTHER CATALOGUES WITHDRAWN.

489

CATALOGUE

OF

HIGH-GRADE
FIRE-PROOF SAFES

WITH AND WITHOUT

BANKERS' CHESTS, STEEL LININGS, AND INTERIORS.

Latest Improved Square-Door Bank Safes,

WITH RESERVE CHESTS

PATENT SCREW-DOOR BANK SAFES.

Export and Coin Safes, Express Messenger Boxes, Vault Fronts and Doors

BANK AND SAFETY DEPOSIT VAULTS, SAFETY DEPOSIT BOXES, ETC.

DRAWINGS AND ESTIMATES FURNISHED ON APPLICATION.

1902

ALL OTHER CATALOGUES WITHDRAWN.

THE HALL'S SAFE COMPANY,

SPRING GROVE AVENUE,

CINCINNATI, OHIO, U. S. A.

P. O. Box 846.

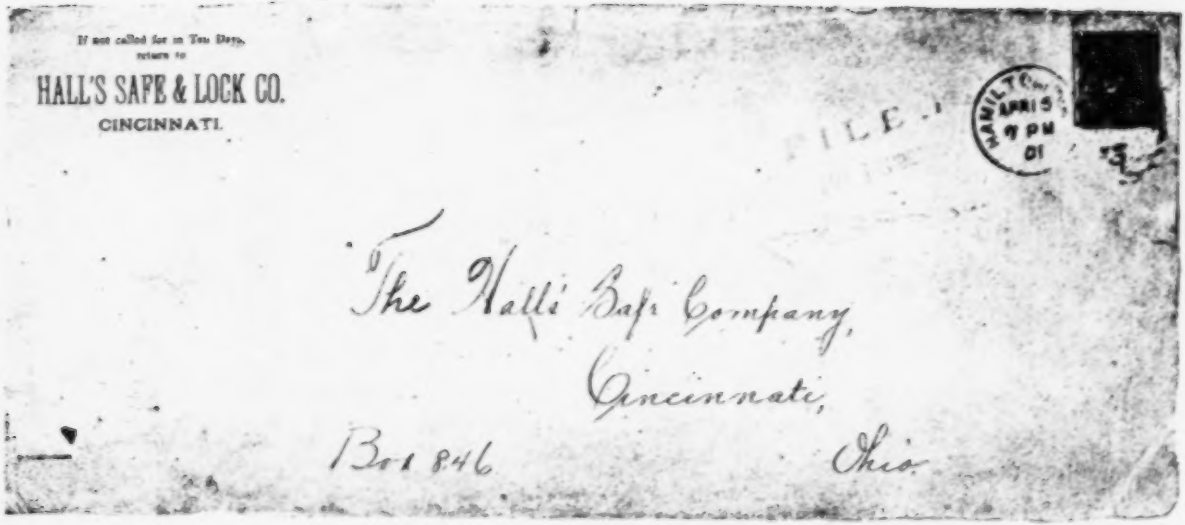
580

HALL'S SAFE & LOCK CO.
CINCINNATI
FILED
JAN 6 PM
Hall's Safe Co
Cincinnati
Ohio

381

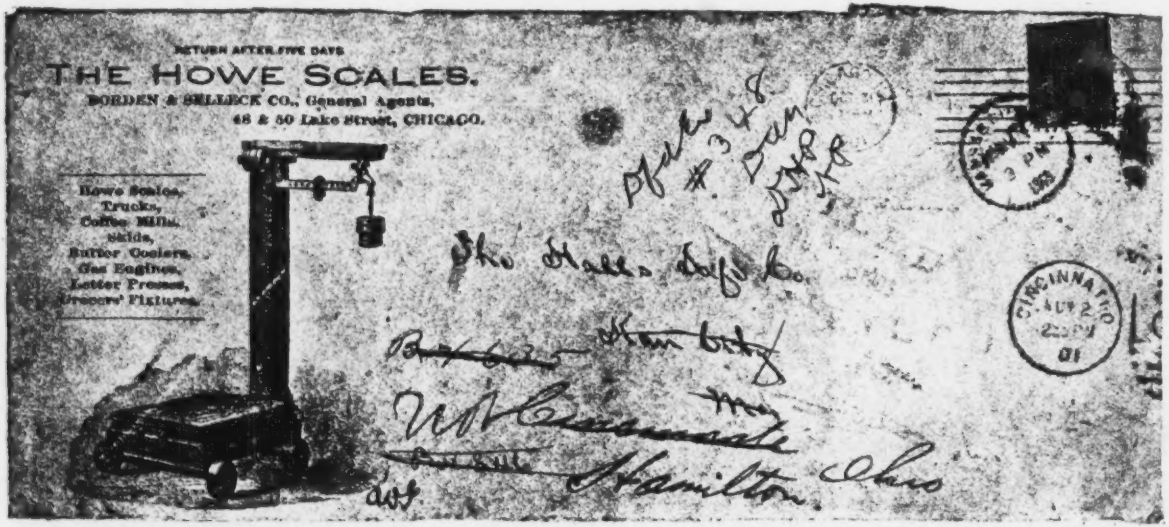
HALL'S SAFE & LOCK CO
CINCINNATI.
FILE
The Hall Safe Co.
PO Box 5476
Cincinnati
Ohio

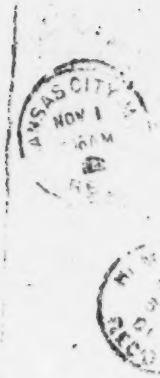
HALL'S SAFE & LOCK CO.
CINCINNATI.
FILED
The Hall's Safe Co.
Cincinnati
Ohio

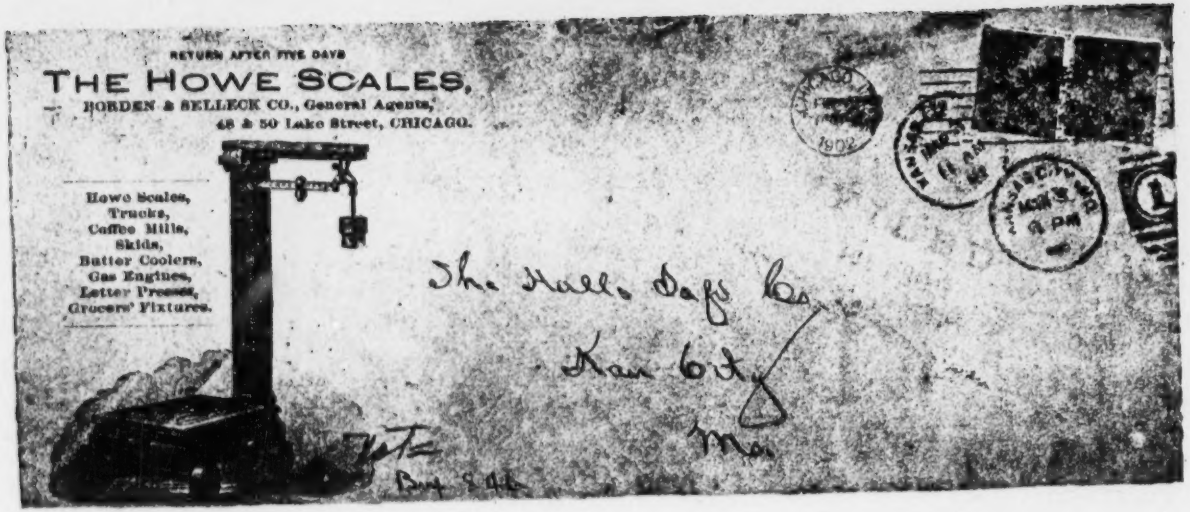

If not called for in Ten Days,
return to
HALL'S SAFE & LOCK CO.
CINCINNATI.
HAMILTON
APR 15
7 PM
01
The Halls Safe Company,
Cincinnati,
Box 846
Ohio.

583

493


RETURN AFTER FIVE DAYS
THE HOWE SCALES.
BORDEN & SELLECK CO., General Agents,
48 & 50 Lake Street, CHICAGO.
Howe Scales,
Trucks,
Coffee Mills,
Scales,
Butter Coolers,
Gas Engines,
Letter Presses,
Grocers' Fixtures.
CINCINNATI
AUG 2
01




RETURN AFTER FIVE DAYS
THE HOWE SCALES,
BORDEN & SELLECK CO., General Agents,
48 & 50 Lake Street, CHICAGO.
Howe Scales,
Trucks,
Coffee Mills,
Skids,
Butter Coolers,
Gas Engines,
Letter Presses,
Grocers' Fixtures.
CHICAGO
1902
9 PM
The Hall Safe Co
Kan City
Mo

587

THE HOWE SCALES.
HOLDEN & BULLOCK CO., General Agents,
48 & 50 Lake Street, CHICAGO.
Howe Scales,
Trucks,
Coffee Mills
Slicers,
Butter Coolers,
Gas Engines,
Letter Presses,
Grocers' Fixtures.

HAMILTON ONTO
REC'D

RETURN AFTER FIVE DAYS
THE HOWE SCALES.
BORDEN & SELLECK CO., General Agents,
45 & 50 Lake Street, CHICAGO.
Wrote C. M. 3-30-03
Kansas City, Mo.

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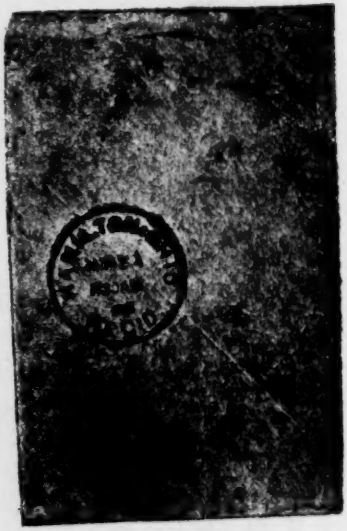
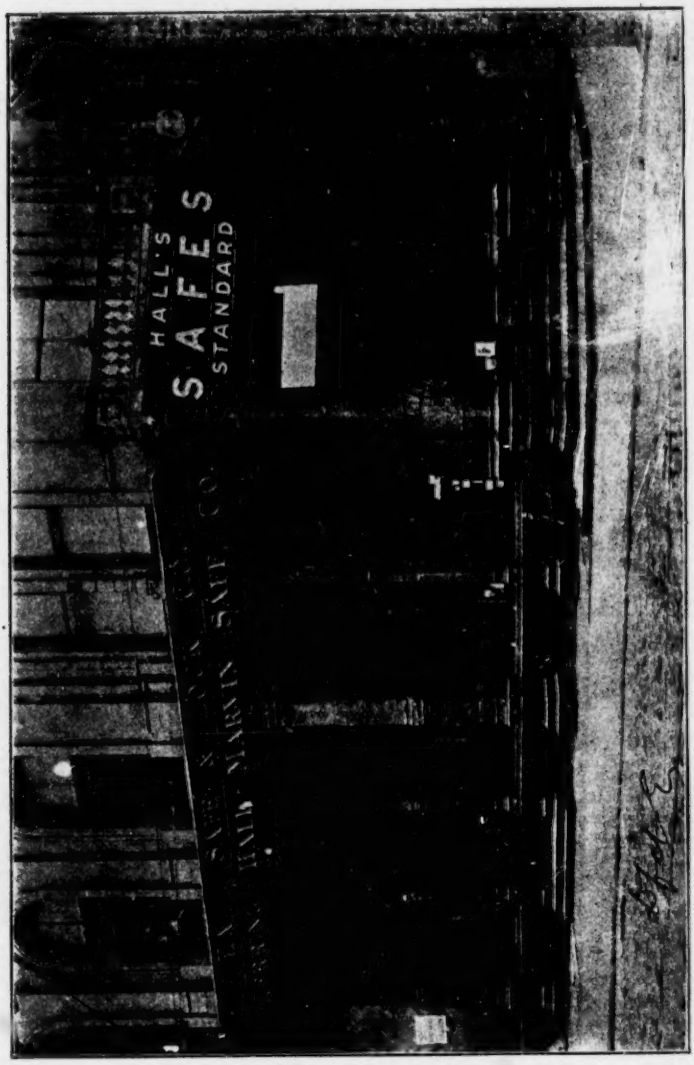
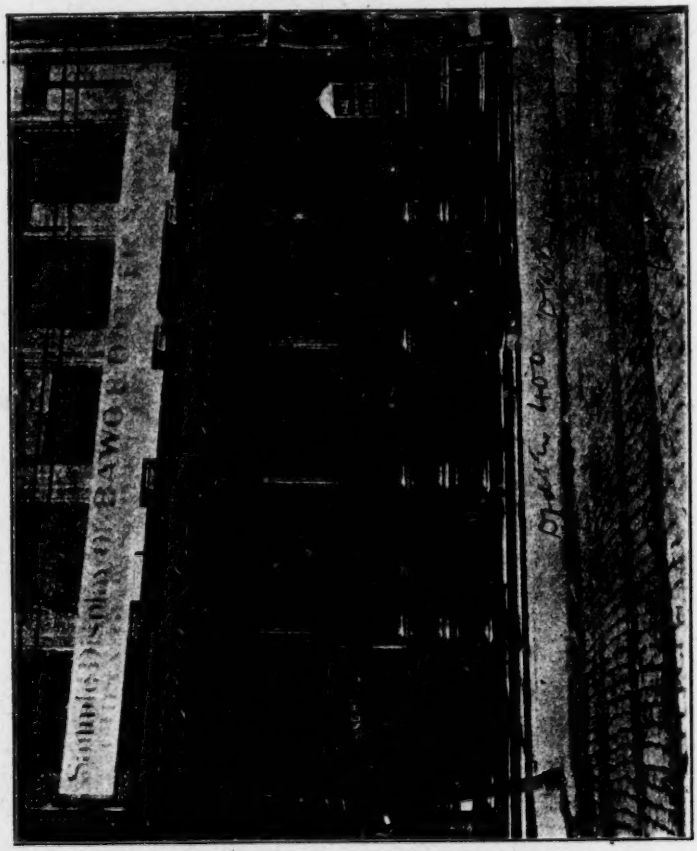
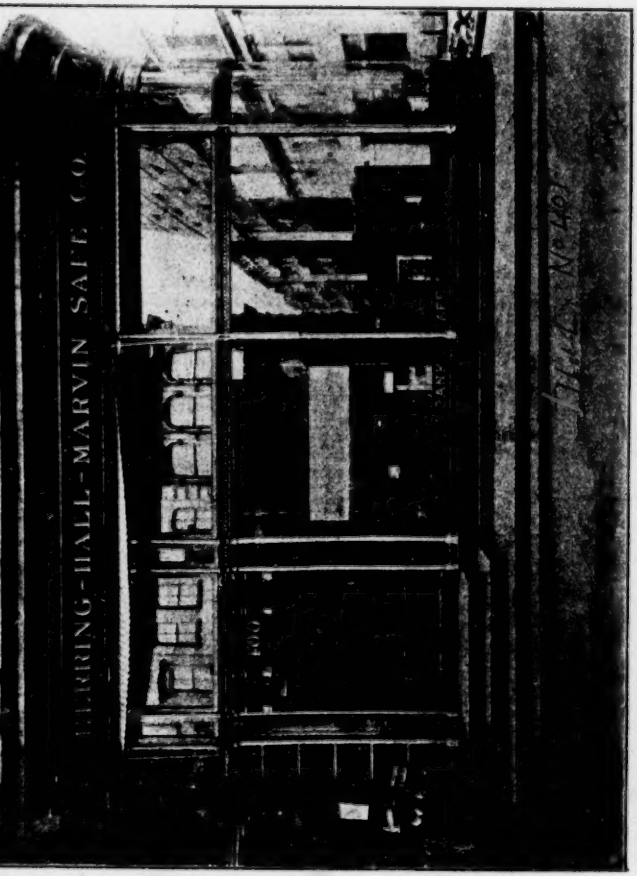


Endorsed: Defendant's Exhibit No. 399, D. A. B., D. H. P., N. P.




Samples of Sides of Bawo & Dotts
Photo. Geo. Bacon & Son

593



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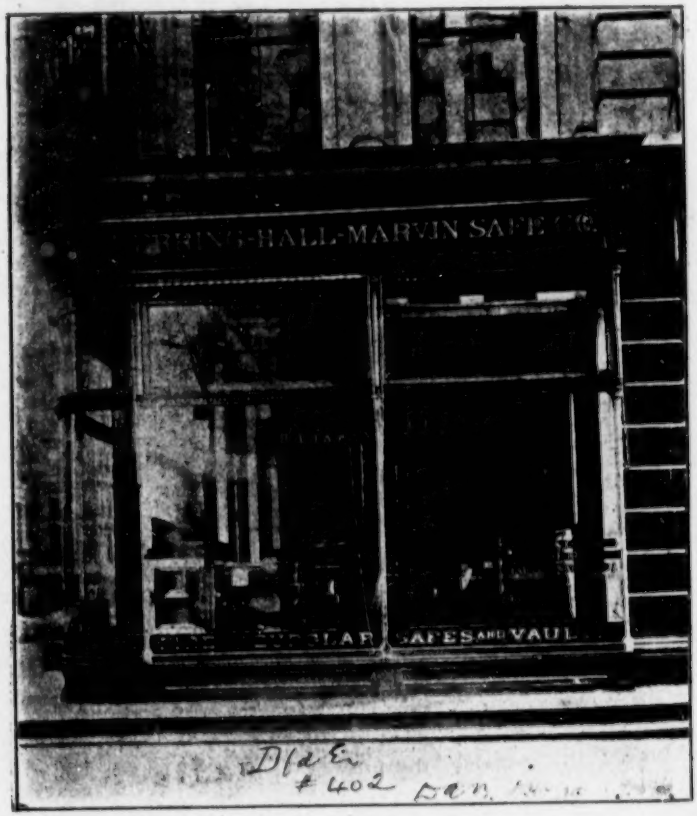


505

Endorsed: Deft's. Ex. No. 405, D. A. B., D. H. N. P.

THE ONLY OFFICE OF

Hall's
Safe and Lock
Company

Of Cincinnati, Ohio,
IS LOCATED AT

Hoen Building
Lexington and North Sts.
MAKE NO MISTAKE.

Telephones { Courtland 970
Mt. Vernon 2506

597 And afterwards towit, on October 5, 1905, a præcipe for appearance of counsel was filed which reads and is as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#1494.

THE HALL SAFE CO. ET AL.
vs.
HERRING-HALL-MARVIN SAFE CO.

Frank O. Loveland, Clerk of said Court:

Please enter my appearance as counsel for the Hall's Safe Company *et al* Appellants.

W. C. COCHRAN.

And afterwards towit on May 1st, 1906, a præcipe for appearance of counsel was filed clothed in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#1494.

THE HALL'S SAFE CO. ET AL.
vs.
HERRING-HALL-MARVIN SAFE CO.

598 Frank O. Loveland, Clerk of said Court:

Please enter my appearance as counsel for the appellants.

JUDSON HARMON.

And afterwards towit on May 3rd, 1906, an entry was made on the Journal of said Court in said cause which reads and is as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#1494.

HALL'S SAFE CO. ET AL.
vs.
HERRING-HALL-MARVIN SAFE CO.

This cause is argued in part for appellants by Mr. Judson Harmon and continued until tomorrow at 9.30 for further argument.

And afterwards towit on May 4th, 1906, an entry was made upon the Journal of said Court in said cause clothed in the words and figures as follows:

599 United States Circuit Court of Appeals for the Sixth Circuit.

HALL'S SAFE CO. ET AL.
vs.
HERRING-HALL-MARVIN SAFE CO.

This cause is further argued for appellants by Mr. W. C. Cochran and by Mr. Lawrence Maxwell Jr., for the appellee and is submitted.

And afterwards towit on June 5th, 1906, a decree was entered in said cause which is in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

HALL'S SAFE CO. ET AL.
vs.
HERRING-HALL-MARVIN SAFE CO.

Before Lurton, Severens, and Richards, C. J. J.

Appeal from the Circuit Court of the United States for the Southern District of Ohio.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Southern
600 District of Ohio and was argued by counsel.

On Consideration Whereof, It is now here ordered, adjudged and decreed by this Court that the decree of the said Circuit Court in this cause be and the same is hereby reversed with respect to the defendants Hall; with respect to the defendant Hall's Safe Company the decree is affirmed and the cause is remanded to the said Circuit Court with directions to modify the injunction, heretofore granted, in conformity with the opinion of this Court in this cause. The costs of this appeal to be equally divided between appellant, Hall's Safe Company and the appellee. The dismissal of the cross-bill is affirmed.

And afterwards towit on June 20th, 1906, an opinion was filed in said cause which is in the words and figures as follows:

Opinion.

601 Filed Jun- 20 1906 Frank O. Loveland, Clerk.

No. 1494.

United States Circuit Court of Appeals, Sixth Circuit.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL, Appellants,
vs.
HERRING-HALL-MARVIN SAFE COMPANY, Appellee.

Appeal from the Circuit Court of the United States for the Southern District of Ohio.

Submitted April 4, 1906; Decided June 5, 1906.

Before Lurton, Severens, and Richards, Circuit Judges.

SEVERENS, *Circuit Judge,* delivered the opinion of the court.

The parties to this controversy are engaged in the business of manufacturing and selling safes. The complainant is a corporation organized under the laws of New Jersey. The defendant, The Hall's Safe Company, is an Ohio corporation, and the other defendants are citizens of that state. The bill was filed for the purpose of obtaining an injunction restraining the defendants from carrying on the business of manufacturing or selling fire proof, or burglar proof safes or vaults under the name of "The Hall's Safe Company," or under any other trade name substantially or essentially the same and calculated to deceive the public or intending purchasers into the belief that they are dealing with the complainant, or with the establishment founded by Joseph C. Hall and carried on by complainant, when they are dealing with the defendants, and
602 from advertising their products as "Hall's Safes" and from marking them with that name; and for the recovery of profits and damages already lost and suffered by the complainant from acts of the like character. And there was a prayer for general relief.

The facts, about which there is not much controversy, are these: From about the year 1847 to 1867, one Joseph L. Hall had, in successive co-partnerships with other persons, been engaged at Cincinnati, Ohio, in the manufacture and sale of fire and burglar proof safes. In this business he had been the principal and managing member of his firms. In the latter year (1867) he with other persons organized a corporation under the laws of Ohio by the name of "Hall's Safe & Lock Company" for the purpose of carrying on the same business. Its factory and principal office were located at Cincinnati, and its business of selling safes extended throughout the United States and into foreign countries. Its safes were known as "Hall's Safes" and "Hall's Standard Safes," and certain styles of them were marked

"Hall's Standard Safes," and the safes had a good reputation. In March, 1889, the said Joseph L. Hall, who was at that time the principal stockholder in the corporation last mentioned died. His sons, Edward C., William H. and Charles O. Hall, were also stockholders. The first two became successively presidents of the corporation. The stock of Joseph L. Hall continued part of his estate and the business went on as before until May 4, 1892, when the corporation sold to the Herring-Hall-Marvin Company, a New Jersey corporation, all its "real estate and lease hold interests, tools, machinery, fixtures, merchandise, trade marks, trade names and good will;" and the Hall's Safe & Lock Company covenanted and agreed that it would close up its affairs and be dissolved, and would not in the future engage or continue in said business. This sale and agreement was assented to by the above named sons of Joseph L. Hall, who are the individuals made defendants in this cause. Edward C. Hall and William H. Hall at or about the date of the transfer became stockholders, (as we must suppose) directors, and
603 respectively president and treasurer of the Herring-Hall-Marvin Company, at stated salaries agreed upon at the time of said transfer. But in 1895, these persons were deposed from their offices and their salaries reduced, and on August 1, 1896, they resigned their officers as directors. Their resignations were accepted, and they withdrew from the company. At the time when these parties became associated with the Herring-Hall-Marvin Company a written agreement with that company was entered into by each of them, which after stating the terms of their employment contained the following stipulation:

"And in consideration as aforesaid, I, the said Edward C. Hall (in the other contract, William H. Hall) do hereby covenant, promise and agree that I will not, so long as the Herring-Hall-Marvin Company may desire to retain my services as above, engage, either in the state of Ohio, or in the state of New Jersey, or in any of the states east of the Mississippi river, in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults and safes, or in any business or occupation such as the said corporation known as the Hall's Safe & Lock Company has heretofore been engaged in, or such as the Herring-Hall-Marvin Company is authorized or empowered to engage in, or in any other business which will or may compete or interfere in any manner with the business of the said Herring-Hall-Marvin Company."

In September, 1896, Edward C. Hall, William H. Hall, Charles O. Hall and other persons organized a corporation under the laws of Ohio, by the name of "The Hall Safe Company," the corporate defendant herein, and this company shortly thereafter went into the business of manufacturing and selling safes. A bill in equity was soon after filed in the Circuit Court of the United States against the new company by the Herring-Hall-Marvin Company complaining that the former was infringing its trade and good will and praying for an injunction. While that suit was pending, the Herring-Hall-Marvin Company became insolvent and a receiver was appointed. A new corporation was organized in New Jersey, the complainant in

this suit, an order of the court for a sale of the assets of the old company was obtained, and the new company became the purchaser in December, 1900, by a deed which purported to convey
604 to the complainant all the real estate, personal property, manufacturing plant, tools, machinery, merchandise, assets, franchises, property and good will of the Herring-Hall-Marvin Company. The bill in that case was dismissed upon a ground not now material, but without prejudice. Not long after the present bill was filed by the new company.

The *gravamen* of the complaint is that the defendants invade and injure the good will and reputation of the complainant's business by the adoption of the corporate name of the defendant, "The Hall's Safe Company" and also by inducing the public through advertisements, circulars and other representations to believe that their safes are the product of the complainant's business. The defendants admit the acquisition by complainant of the properties, including the good will, of The Hall Safe & Lock Company, but claim that the individual defendants were not by the sale of the latter company deprived of the right to organize a new company which shall include their family name, and that the name of "Hall's Safe Co." is one which may lawfully be adopted. The defendants also filed a cross-bill in which they charge complainant with unfair conduct in seeking to divert the defendant's trade by false representations concerning it. The complaint of the cross bill was that the defendant therein had some time prior to the commencement of this suit removed its manufacturing plant from Cincinnati to Dayton, Ohio, and directed all mail addressed to the Hall Safe & Lock Company at Cincinnati to be forwarded to it at Dayton; and that it was holding itself out as the Hall Safe & Lock Company or Hall Safe & Lock Works, and the like, and was representing by its signs, advertisements, publications and stationery that it was the "Successor of Hall's Safe & Lock Co.," or was "Operating Hall's Safe & Lock Works," or was making and selling "Hall's Safes." And upon answer and replication evidence was taken upon those matters. The court below dismissed the cross-bill and decreed for the complainant upon the original bill, awarding an injunction. Complaint is made of the decree, that it is vague and uncertain in respect to the
605 things which the defendants are restrained from doing, a matter to be recurred to later on.

Counsel for complainant contend that it is entitled to the relief it demands by virtue of the contract between it and the Hall Safe & Lock Company by which it acquired the property and good will of the latter company, and that its rights are not to be measured by the rules and principles which apply in the case of unfair competition in trade. And it is argued that this consideration distinguishes the case from that of Howe Scale Co. *v.* Wyckoff, Seamans, etc., 198 U. S. 118, where there was much discussion of the extent of the right of a person to use his own name in the conduct of his business, whether it be his private business or that of a corporate business in which he is associated with others, and reference is made to the language of the chief justice at page 140, where

he says: "We hold that in the absence of contract, fraud or estoppel, any man may use his own name, in all legitimate ways, and as the whole or a part of a corporate name."

Upon this contention it becomes important to determine what were and are the relations between the complainant and its predecessor in title and the several defendants. Undoubtedly the Herring-Hall-Marvin Company acquired by its contract of purchase with the Hall Safe & Lock Company all its physical properties and the good will which it had acquired in its business as well as the right to use such trade names as had been customarily used to identify its products. It acquired also the right to require that the Hall Safe & Lock Company should go out of business, or, in substance, that it should not longer engage in business of the kind which it sold to the Herring-Hall-Marvin Company. But it is contended that the contract reaches beyond the corporation, the Hall Safe & Lock Company, and binds the defendants who were stockholders and officers of the corporation and prevents them and any corporation of which they may become stockholders and managers from doing what the Hall Safe & Lock Company could not do; and the principal reason for this contention is the fact that these individual defendants participated in the sale and as stockholders received its
606 benefits. We are of opinion that this proposition cannot be sustained. The contract which the Herring-Hall-Marvin Company had was with the corporation only and not with its stockholders or officers. The officers who conducted the business of the selling company were not parties to the contract. It is a familiar rule that an agent, who having lawful authority makes a contract with another for a known principal, does not bind himself but his principal only. Story on Agency, Section 261; Mechem on Agency, Section 555; Whitney *v.* Wyman, 101 U. S. 392.

And the officers of a private corporation in respect to their liability on contracts entered into by them in behalf of the corporation stand upon the same footing as agents of private individuals. 21 Am. & Eng. Encl. of Law, 879; Whitney *v.* Wyman, *supra.*

If the purchaser desired to make the officers and agents of the selling corporation subject to the stipulations of the company in the contract of sale, it should have required their personal agreement to that effect.

The cases cited by counsel for the complainant to support their contention that the court may look through the form of corporate organization and fasten upon the stockholders a liability for the acts of the corporation, do not support such a doctrine, as applicable to contract relations. These are State *v.* Standard Oil Company, 49 Ohio St. 137; McKinley *v.* Wheeler, 130 U. S. 630, and Anthony *v.* American Glucose Co., 140 N. Y. 407. They were all cases where for special purposes and in special circumstances the court held that it was competent and proper to regard the rights and duties of stockholders in corporations. None of them impugns the general rule above stated that in matters of contract, the officers and agents of a corporation are not bound personally by stipulations made by them in behalf of their principal. This rule is not affected by

the circumstance that they are indirectly interested as stockholders in the contracts of their corporation. If it were so, it would break down all distinction between the corporate entity and its component parts. Counsel for the appellee have pointed in their brief a
607 recent decision, not yet published, of the Circuit Court of Appeals for the Seventh Circuit, in a case entitled Hall's Safe & Lock Company and James W. Donnell *v.* Herring-Hall-Marvin Safe Co. The suit was brought to restrain the defendant from using in its business the corporate name of the complainant as descriptive of its products. The defendant filed a cross-bill to restrain the complainant in the original bill from using the name of the Hall's Safe & Lock Co. in their business of making and selling safes, and from selling such safes as "Hall's Safes." It appears from the opinion that Donnell had organized an Illinois corporation, the co-defendant, with the name of the old Hall's Safe & Lock Co., having no member of the name of Hall, and was carrying on the safe business under that style at Chicago. The court holds, what we should suppose quite clear, that this assumption of the name of "Hall's Safe and Lock Company" was a fraudulent device to appropriate the good will of the old company to which the Herring-Hall-Marvin Safe Company had succeeded. It is also held that the defendant in the cross-bill should be restrained from selling safes which were not of the manufacture of the Herring-Hall-Marvin Company, as "Hall's Safes." It was claimed that the defendant in the cross-bill was selling under that name safes made by the Hall's Safe Co., the defendant here. It was only in this incidental way that the rights of the Halls were considered, and of course they could not be adjudged in that suit.

We do not think there is any substantial difference between the conclusion of that court upon the propriety of the use of the designation "Hall's Safes" and our own. We think it quite likely that court would have accepted the qualification that the use of such a designation in the business of the Halls would not be unlawful provided it was accompanied by explanatory matter showing that the product was their own and not that of the old company or its successors in business.

It is true that the learned judge who delivered the opinion said *arguendo*, that the court might look behind the corporation and find whether there were equities between the Herring-Hall-Mar-
608 vin Co. and the members of the Hall's Safe & Lock Company which would attach to the Hall's Safe Co., of which they are now members, and concluding there were such equities, proceeded to deduce the consequences. Without repeating what we have said upon this subject, we are constrained to think that the defendants, Hall, were not bound individually in law or in equity by the contract of their corporation.

The determination of the case must depend upon the application of other principles than such as would obtain if there were contractual relations between the parties in reference to the subject matter of the suit. When the Herring-Hall-Marvin Company purchased the Hall Safe & Lock Company's plant and business, it

acquired the good will of the latter company, and this included the right to use the means of communicating to the public information that it had succeeded to the business and good will of its vendor and among these rights was that of using the trade names which had been employed in the business and by which the products thereof had been indentified and known. And although the receiver's conveyance to the complainant did not in terms convey the right to use the old trade names, yet as it professed to convey all the assets of the Herring-Hall-Marvin Co. including the good will, we think it should be held that the purchaser acquired the right to designate its products by the same means as its predecessor in title had done. These rights it was entitled to enjoy exclusively. They were its property. Neither these defendants or any other person could lawfully invade them. And we put the statement in this form to signify that in our opinion the defendants were precluded equally with, and not otherwise than, all other persons, because it seems to us that if there are no contractual relations between the parties, it is indifferent that the rights of the complainant are derived from the Hall Safe & Lock Company.

It would not be difficult to define in comparatively set terms the limits within which the parties to this controversy should be confined, were it not for the fact that these individual defendants bear the name which has long been associated with the complain-
609 ant's products. Joseph L. Hall left five sons, of whom the defendants Hall were the eldest, and they were all bred to the father's business and have followed it from their youth. They undoubtedly have the right to pursue the occupation of manufacturing and selling safes and they have the right to use their own family name in the business and adopt all proper means of making it known to the public that the safes they offer are made by them; and they have the right to build up a business with a good will of its own. And if they choose to organize a corporation for that purpose, they have the right to use their family name in its title. But in doing all these things, neither these individual parties nor the corporation has the right to endeavor to lead the public into the belief that the safes they make are the product of the Hall Safe & Lock Company's successors in business. If notwithstanding, the defendants conduct their business within these limits, it should happen that from the similarity of names, and the kind of business, intending purchasers might sometimes fall into the mistake that the defendants were the successors of the Hall Safe & Lock Company, and were making the kind and quality of safes that were made by that company, the defendants would not be responsible therefor. If in the choice of a corporate name, one should be chosen which would be likely to catch the complainant's business, it would be necessary to accompany its use in the business of the company by explanatory statements which would prevent any misunderstanding; for such a choice without explanation would be *prima facie* evidence of unfair dealing.

The cases upon this subject have come to be very numerous, and it is unnecessary to canvass them. This has been done so recently

in several decisions of the Supreme Court that we shall content ourselves with the statement of the controlling principles which we conceive to be now established, referring for authority to, Howe Scale Co. *v.* Wyckoff, Seamans etc., 198 U. S. 118; Singer Mfg. Co. *v.* June Mfg. Co., 163 U. S. 169; Brown Chemical Co. *v.* Meyer, 139 U. S. 540; Turton and Sons *v.* Turton and Sons, L. R. 42 Ch. Div. 128; Reddaway *v.* Banham, L. R. Ap. Cas. (1896) 199.

The subject was also elaborately discussed, and the au-
610 thorities cited, in the opinion of this court in Royal Baking Powder Co. *v.* Royal, 122 Fed. 337, 58 C. C. A. 499, delivered by Judge Lurton.

Recurring to the facts of the present case the name adopted for the corporation was "Hall's Safe Company," a name so dangerously near to that of the "Hall's Safe & Lock Company" as to make it apparently necessary, to avoid mistake, that explanation should be made that it was not the same company or its successor in business. The testimony shows clearly enough that this had not been done; and although for a short time before the filing of the petition the defendant's practices had been mended in this regard, there was sufficient ground to apprehend the repetition of unauthorized pretensions by defendants to justify the complainant in invoking the power of the court to prevent them. Inasmuch as the individuals who are made defendants are not engaged in a business or proposing to engage in a business of their own prejudicial to the complainant, it would seem that the relief acquired should be the restraining of the corporation and its officers and agents from committing the unlawful acts complained of. It is not alleged in the bill that these defendants are personally committing or threatening to commit any injurious acts. They are apparently made parties because of the fact that they were large stockholders in the Hall Safe & Lock Company and had assented to the sale of its properties, and had been instrumental in the organization of the new company. But we do not think the latter fact alone subjected them to any liability, and if as we have held, they were not personally bound by the stipulations of the company, we perceive no sufficient ground for awarding an injunction against them.

This has often been held in suits brought for the infringement of patents, and the rule seems equally applicable to cases of the character before us. Western Union Telg. Co. *v.* Home Telg. Co., 85 Fed. 649; Bowers *v.* Atlantic, G. & P. Co., 104 Fed. 887; Loomis-Manning Filter Co. *v.* Manhattan Filter Co., 117 Fed. Rep. 325; Greene *v.* Buckley, 120 Fed. 955.

But we think the facts justified an injunction against the
611 Hall Safe Company, though not in the terms stated in the decree.

With respect to the defendants Hall, we think the decree should be reversed with directions to dismiss the bill.

With respect to the defendant Hall's Safe Co. the injunction should be modified. In lieu of the injunction ordered by the court below the following will be substituted:

The defendant the Hall's Safe Company, its servants, agents,

officers and employees are perpetually enjoined from carrying on the safe or vault business in the name of the Hall's Safe Company or any other name having similarity to the name Hall's Safe and Lock Company, without also giving information to the public that it is not the business formerly carried on by the Hall's Safe and Lock Company; and from making, advertising or otherwise designating its safes and vaults as the products of the Hall's Safe and Lock Company or its successors in business, or pretending that it is carrying on the business started by Joseph Hall and continued by the Hall's Safe and Lock Company; and from interfering in any manner with the exclusive right of the complainant to possess and enjoy the good will acquired by the Hall's Safe and Lock Company and from using the trade name of said last named company without at the same time so qualifying such trade name as to show that the trade name used is not the one formerly used to designate the products of the Hall's Safe and Lock Company.

In respect to the matter of the cross-bill, we think there is no substantial ground for complaint. For the reasons stated in the preceding opinion we are not prepared to say that the complainant in the original bill has exceeded its rights in endeavoring to maintain the benefits of its purchase from the Hall Safe & Lock Company; and we concur with the court below in holding that the cross-bill should be dismissed.

The costs of this appeal will be borne by the appellant, Hall's Safe Company, and the appellee, to be equally divided.

612 United States Circuit Court of Appeals for the Sixth Circuit.

I, Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby certify that the foregoing is a true and correct copy of the record and proceedings in the case of Hall's Safe Company *et al. vs.* Herring-Hall-Marvin Safe Co., No. 1494, as the same remains upon the files and records of said United States Circuit Court of Appeals for the Sixth Circuit, and of the whole thereof.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said Court, at the City of Cincinnati, Ohio, this 10th day of October, A. D. 1906.

[Seal United States Circuit Court of Appeals, Sixth Circuit.]

FRANK O. LOVELAND,
Clerk of the United States Circuit Court of Appeals for the Sixth Circuit.

613 UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the United States Circuit Court of Appeals for the Sixth Circuit, Greeting:

Being informed that there is now pending before you a suit in which Hall's Safe Company, Edward C. Hall, William H. Hall, and Charles O. Hall, are appellants, and Herring-Hall-Marvin Safe Company is appellee, which suit was removed into the said Circuit Court of Appeals by virtue of an appeal from the Circuit Court of the United States for the Southern District of Ohio, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Circuit Court of Appeals and removed into the Supreme Court of the United
614 States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 30th day of October, in the year of our Lord one thousand nine hundred and six.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

United States Circuit Court of Appeals for the Sixth Circuit, *ss:*

I, Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit do hereby certify that the transcript of the record of the proceedings of this court in the within entitled case heretofore certified by me for filing in the Supreme Court of the United States was correct and complete as the same then appeared in this court.

In pursuance of the command of the foregoing writ of certiorari I now hereby certify that on the first day of November, 1906, there was filed in my office a stipulation in the above entitled case in the following words, to-wit:

United States Circuit Court of Appeals for the Sixth Circuit.

No. 1494.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL, and CHARLES O. HALL, Appellants,
vs.
HERRING-HALL-MARVIN SAFE COMPANY, Appellee.

Stipulation.

It is hereby stipulated that the certified transcript of record filed in the Supreme Court of the United States on the application for

writ of certiorari may be taken as a return to the writ of certiorari issued by the Supreme Court.

WILLIAM C. COCHRAN,
Counsel for Appellants.
LAWRENCE MAXWELL, JR.,
Counsel for Appellee.

I further certify that the above is a true and correct copy of said stipulation and of the whole thereof.

Witness my signature and the seal of said Circuit Court of Appeals at the city of Cincinnati in said circuit this first day of November, A. D. 1906.

[Seal United States Circuit Court of Appeals, Sixth Circuit.]

FRANK O. LOVELAND,
Clerk United States Circuit Court of Appeals, Sixth Circuit.

615 [Endorsed:] File No. 20,427. Supreme Court of the United States. No. 462, October Term, 1906. Herring-Hall-Marvin Safe Company *vs.* Hall's Safe Company *et al.* Writ of certiorari and return. Filed Nov. 3, 1906.

Supreme Court of the United States,

OCTOBER TERM, 1907.

No. 136.

HERRING-HALL-MARVIN SAFE COMPANY, *Petitioner*,

vs.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL and CHARLES O. HALL.

On Writ of Certiorari to the United States Circuit Court of Appeals for the The Sixth Circuit.

BRIEF FOR THE PETITIONER.

STATEMENT OF THE CASE.

This is a bill in equity by Herring-Hall-Marvin Safe Company against The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, to enjoin them from carrying on the safe business under the name Hall's Safe Company, or any name similar to that of the Hall's Safe & Lock Company, and from advertising their safes as "Hall Safes." The defendant, the Hall's Safe Company, filed a cross-bill to enjoin the plaintiff from using the name Hall's Safe & Lock Company and from holding itself out as

the successor of that company, or as making and selling "Hall Safes," and from advertising its product as "Hall Safes."

The circuit court entered a decree enjoining the defendants substantially as prayed in the bill, and dismissing the cross-bill. On appeal the circuit court of appeals reversed the decree, except in so far as it dismissed the cross-bill, and entered a decree dismissing the bill as against the individual defendants, and awarding an injunction against The Hall's Safe Company in terms so loose and general as to place it under practically no restrictions in using the name Hall's Safe Company, and in selling its product as "Hall's Safes."

The plaintiff is successor of Herring-Hall-Marvin Company, which bought the business and good-will of the Hall's Safe & Lock Company, as a going concern, in 1892. It was an old established business that had been founded by Joseph L. Hall in 1847, and had been carried on for a quarter of a century prior to the sale under the corporate name of Hall's Safe & Lock Company. It had the largest trade of any safe manufacturer in the United States, if not in the world, and its product was well and favorably known throughout the United States and in foreign countries as "Hall's Safes" and "Hall's Standard Safes."

The individual defendants were sons of Joseph L. Hall and officers and stockholders of the Hall's Safe & Lock Company. Edward C. succeeded his father as president on the death of the latter in 1889. William H. was vice-president and Charles O. assistant-superintendent. All became connected with Herring-Hall-Marvin Company, Edward C. as president and a member of the board of directors, William H. as treasurer and a member of the board, and Charles O. as an employe. They remained with it until 1896, when

they quit and organized the defendant corporation, The Hall's Safe Company. They adopted a name substantially the same as that of the concern whose good-will they had sold; called their product by the old trade-name, "Hall's Safes;" held themselves out in catalogues and advertisements as the old concern with a record of sixty years, and advertised their safes as "the old reliable Hall's Safes." We refer particularly to the following:

Exhibit 18, Defendant's catalog. R. 283-286.

Exhibit 19, Defendant's catalog. R. 287-290.

Exhibit 23, Advertisement in the Manufacturer and Exporter of May, 1904. R. 439.

Newspaper advertisements on pages 279, 280, 291 and 292, of the record.

The defendants claimed at the trial in the circuit court, in 1905, that they had withdrawn the most flagrant of these advertisements, after having used them for five years, but it will be noticed that they were repeated as late as March 13, 1904, in the placards displayed in the windows of their New York office (Photographs Exhibit 39 and 40, R. 451, 452), and in their advertisement in The Manufacturer and Exporter of May, 1904. R. 439.

ARGUMENT.

I.

"Halls Safes" was a trade-name of the old concern indicating the source of manufacture.

The safes made by the old concern were called "Hall's Safes," and advertised by that name. It was the short name for them in the trade; in other words, their trade-name. It did not denote a particular kind of safe, but the origin of manufacture. This is admitted by the answer which avers (R. 13),

"That all safes made by said Hall's Safe & Lock Company were marked with its corporate name and title, and were

known and spoken of as "Hall's Safes," not because they were so marked, but because the trade recognized that they were made by and under the supervision of the Halls father and sons up to the spring of 1889, when the said Joseph L. Hall died, and by the sons alone, from that time to May, 1892."

The defendant, William H. Hall, testified on cross-examination as follows (R. 178):

"X-Q. 111. What did the "Hall's Safe" mean in December, '91?

A. The "Hall's Safe" in December, '91, meant a safe manufactured by the Hall's Safe & Lock Company.

X-Q. 112. That was a well known term, was it?

A. Undoubtedly."

After saying that he presumed a safe made by Joseph L. Hall would also be called a "Hall's Safe," he testified (R. 178):

"X-Q. 115. What would be known as a "Hall's Safe" in June, '92?

A. What part of June?

X-Q. 116. Well, take the first of June?

A. Would be known as a safe made by the Hall's Safe & Lock Company.

X-Q. 117. The safes made by the Hall's Safe & Lock Company were widely advertised as "Hall's Safes," were they not?

A. Yes, spoken of as "Hall's Safes."

X-Q. 118. By the trade and by people generally, were they not?

A. Yes, sir.

X-Q. 119. And were so known and designated throughout the United States, were they not?

A. In talking of a safe, a Hall's Safe & Lock Company safe would be called a "Hall's Safe."

Having testified that the term "Hall's Safe," at the time of his deposition (1905), meant a safe manufactured by the

defendant, the Hall's Safe Company (R. 178), he said (R. 179):

"A. When the Hall's Safe & Lock Company went out of existence, they stopped manufacturing "Hall's Safes," so there were no more "Hall's Safes" turned out.

X-Q. 124. But there are hundreds of thousands of those safes in existence, are there not, made by the Hall's Safe & Lock Company?

A. Yes, sir.

X-Q. 125. And they continued to be known as "Hall's Safes"?

A. Yes, those that were out.

X-Q. 126. Then on the 16th day of June, if anybody spoke of a "Hall's Safe," you would understand that they referred to a safe made by the Hall Safe & Lock Company?

A. By the old company.

X-Q. 127. Now, when was it that a "Hall's Safe" came to be known as a safe made by Hall's Safe Company?

A. After the Hall's Safe Company began making their safes they were known as "Hall's Safes" among our dealers.

X-Q. 128. What date do you fix that in?

A. Well, during the year '97.

X-Q. 129. Then up to that date in 1897, the precise day of which you are not able to tell us, "Hall's Safes" indicated a safe that had been made by the Hall's Safe & Lock Company?

A. Yes, sir.

X-Q. 130. And the day after you began to make safes, a "Hall's Safe" meant a safe made by the Hall's Safe Company of Cincinnati; is that it?

A. Yes, sir."

The extent to which "Hall's Safes" was used by the old concern and by the public as a short designation for its product is shown by the following exhibits:

Exhibit No. 11. R. 414. Photograph showing large sign "Hall's Safes" across the front of the office at Louisville, Ky., and "Hall's Safe" on the safe in front of the office.

Exhibit No. 12. R. 415. Photograph of a float displayed at an exposition in Minneapolis. Two burglars are represented as trying to open a safe; they drop their tools, saying; "Lets give up Jim, its a Hall." The words indistinct on the photograph are given at page 127. On the top of the float is a safe labeled "Hall's Safe."

Exhibit No. 16. R. 416. Card of the old concern with the words "Hall's Safes" prominently displayed.

Exhibit No. 17. R. 417. Printed catalog, containing testimonials from public officers as to the merits of "Hall's Safes." The commissioners of Hamilton County, Ohio, referring to the destruction of their court house by fire and riot in 1884, say that they "have provided other Hall's Safes for the temporary offices of the county," and that "when police and engines and the militia of the state were powerless to avert the catastrophe, those silent, dumb custodians known as "Hall's Safes" performed their duty and did it well." R. 422.

The county treasurer wrote that he "found a large Hall's Safe in the court house yard that had gone through the fire" and he "bought another Hall." R. 422.

The ex-sheriff gave the following testimonial, in which "Hall's Safes" are referred to as safes "furnished by the Hall's Safe & Lock Company." R. 423:

Cincinnati, March 16, 1885.

"Hall's Safe & Lock Company,

Gentlemen: Word having come to me that a report is in circulation that I made a statement in writing, while sheriff of Hamilton County, to the effect that the safe used in my office had failed preserve the contents during the court house fire, and that said safe was of the Hall make, I wish to contradict the statement and deny that I ever made it, and besides, the safe then used was not furnished

by the Hall's Safe & Lock Company. The Hall's Safes used in the court house at the time did, to my knowledge, preserve everything claimed therein.

Morton L. Hawkins, Ex-Sheriff."

A testimonial follows as to "the superior fire-proof qualities of the Hall Standard Safes" displayed in the great fire in Cleveland, and of "Hall's Safes" in the burning of Chicago. R. 423.

Exhibit No. 22½. R. 438. Photograph of safe bearing words "Hall's South American Safe" and "Hall's Safe & Lock Co."

Also the following cards and advertisements used by the Hall Safe & Lock Company.

R. 444, 445. "Unparalled record of Hall's Safes. 119 Hall's Standard Safes."

R. 445. "Hall's Standard Safes" in the great Seattle fire.

R. 447. "Hall's never-robbed, dove-tailed, burglar-proof safes."

R. 469. "Hall's Safes." "Hall's Fire-proof Safes." "Over 300,000 Hall's Safes in Use."

R. 470. "Hall's Safes protect more wealth than all others combined."

R. 471. "Hall's Safes are the best."

II.

The trade name passed to the purchaser as part of the good-will of the old concern.

The deed of Hall's Safe & Lock Company to the promoters of Herring-Hall-Marvin Company, dated May 12, 1892, is found at pages 92-95 of the record. It conveys:

"All and singular its manufacturing plant, machinery, tools, patterns, buildings, fixtures, leasehold interests, stocks of safes and other merchandise, material, manu-

factured, unmanufactured and in process of manufacture, horses, wagons, vehicles, cartage plant and rigging, bills receivable, book accounts, moneys, debts, dues, books of account and other books, papers, office furniture, trade-marks, patent-rights, trade-rights, good-will, and all its property and assets of every name and nature, wheresoever situated, as the same exist at the time of the delivery of these presents."

The deed contains the following clause:

"It is hereby expressly understood, covenanted and agreed that the business of Hall's Safe & Lock Company is purchased and taken over by the parties of the second part in all respects as a going concern."

It is well settled that trade-marks and trade-names pass under such a sale and conveyance. Sebastian on Trade-Marks (4th Ed.) 308, citing many cases, says:

"And if the good-will is sold the trade-name goes with it."

The question in the case of Menendez vs. Holt, 128 U. S. 514, was whether the plaintiff firm of Holt & Co. had the exclusive right to use one of its trade-marks, "La Favorita" as against S. O. Ryder, a partner who had retired. The Chief Justice, after stating that the defendants claimed that "Ryder, upon leaving the firm, took with him his share of the good-will of the business and consequently of the trade-marks," said:

"It may be that where a firm is dissolved and ceases to exist under the old name, each of the former partners would be allowed to obtain 'his share' in the good-will so far as that might consist in the use of trade-marks, by continuing such use in the absence of stipulation to the contrary; but when a partner retires from a firm assenting to or acquiescing in the retention by the other partners of the old place of business, and the future conduct of the business by them under the old name, the good-will remains with the latter, as of course."

The decision is thus summarized by Mr. Justice Brown in Brown Chemical Company vs. Meyer, 139 U. S. 540, 548:

"So in Menendez vs. Holt, 128 U. S. 514, it was held that when a partner retires from a firm, assenting to, or acquiescing in the retention by the other partners of the old place of business, and the future conduct of the business by them under the old name, the good-will remains with the latter, as of course, and that, under such circumstances, the right to use a trade-mark passes to the remaining partners as a part of such good-will. There are a few cases indicating that the mere right to use a name is not assignable, notably Chadwick vs. Covell, 151 Mass. 190, but none that it may not be assigned to an outgoing partner or to a successor in business as an incident to its good-will. Ainsworth vs. Walmesley, L. R. 1 Eq. 518; Derringer vs. Plate, 29 California, 292."

In Brown Chemical Co. vs. Meyer, 139 U. S. 540, the firm of Brown & Lincoln sold a preparation which they called Brown's Iron Tonic. Brown sold out his interest in the firm to Lincoln, who continued to use the name. The court held that the plaintiff could not "question the right of Brown to transfer his interest in the business, and to include in such transfer the right to the use of his name in connection with the preparation of the tonic, as part of the good-will of the business," p. 547.

In Le Page Co. vs. Russia Cement Co., 51 Fed. 941, 943 (C. C. A. 1st Cir., Mr. Justice Gray sitting), the court said:

"It is equitable that a manufacturer or dealer, who has given reputation to any article, should have the privilege of realizing the fruits of his labors by transmitting his business and establishment, with the reputation which has attached to them, or his decease to his legatees or executors, or during his lifetime to purchasers; and it is also in accordance with the principles of law, and with justice to the community, that any trade-mark, including a surname, may be sold with the business or the establishment to which it is incident; because,

while it may be that individual efforts give them their value at the outset, yet, afterwards, this is ordinarily made permanent as a part of the entire organization, or appurtenant to the locality in which the business is established, and thenceforward depends less on the individual efforts of the originator than on the combined result of all which he created. Kidd vs. Johnson, 100 U. S. 617; Chemical Co. vs. Meyer, 139 U. S. 540; Hoxie vs. Chaney, 143 Mass. 592; Cement Co. vs. LePage, 147 Mass. 206."

The court, adopting the words of the supreme court of Massachusetts in the litigation between the same parties (147 Mass. 206), said:

"Trade-marks, good-will, or rights to use the names of individuals, become, when sold, the property of the person to whom transferred, and do not thereafterwards rest on mere contract; and, without any specification in the instrument of transfer, and merely as inherent to the essential rights of property, they must, with all their incidents, be protected by the courts in the hands of the transferee against all assaults and artifices."

In Russia Cement Company vs. LePage, 147 Mass. 206, the court also said:

"A name used as an adjective of description is not necessarily understood by the public as any assertion that the person whose name is used is the maker of the article. One who has carried on a business under a trade-name, and sold a particular article in such a manner by the use of his name as a trade-mark or a trade-name as to cause the business or the article to become known or established in favor under such name, may sell or assign such trade-name or trade-mark when he sells the business or manufacture, and by such sale or assignment conclude himself from the further use of it in a similar way."

III.

The defendants were not entitled to appropriate the good-will of the old concern by carrying on business under a corporate title substantially the same, and by calling their product "Halls Safes."

In Menendez vs. Holt, 128 U. S. 514, 521, 522, Mr. Chief Justice Fuller said:

"Good-will was defined by Lord Eldon, in Cruttwell vs. Lye, 17 Ves. 335, 346, to be 'nothing more than the probability that the old customers will resort to the old place'; but Vice Chancellor Wood, in Churton vs. Douglas, Johnson, V. C. 174, 188, says it would be taking too narrow a view of what is there laid down by Lord Eldon, to confine it to that, but that it must mean every positive advantage that has been acquired by the old firm in the progress of its business, whether connected with the premises in which the business was previously carried on, or with the name of the late firm, or with any other matter carrying with it the benefit of the business."

In Russia Cement Company vs. Le Page, 147 Mass. 206, the defendant and one Brooks had been engaged in the business of making glue which they put on the market and sold as "Le Page's Liquid Glue." In 1882 they formed the plaintiff corporation, to which they sold their business, and which continued the manufacture of glues under the same name. The sale included the right to use the trade-marks belonging to or in use by the partnership. The defendant was a member of the corporation and a director thereof until 1886, when he left it, and shortly thereafter engaged in the manufacture and sale of glue at Gloucester, where the plaintiff's business was carried on, using the name "Le-Page's Improved Liquid Glue," to advertise the article produced by him. The court said:

"When Le Page (with Brooks) sold to the corporation and when he left the corporation, it must be held that the

name 'Le Page's Liquid Glue' was a trade-name or trade-mark, and it is not important which term is used, indicating the liquid glue which the plaintiff was manufacturing. The right to use it as such was necessarily an exclusive use, as it was intended thus to distinguish plaintiff's goods from those of others."

And the defendant was enjoined,

"from using the words 'LePage's Improved Liquid Glue' or 'Le Page's Liquid Glue' to describe the article manufactured by him, and from describing the company, under whose name he conducts his business, as 'LePage's Liquid Glue Company,' whether with or without any addition thereto."

The decision was followed in LePage Company vs. Russia Cement Company, 51 Fed. 941, in the circuit court of appeals for the first circuit, Mr. Justice Gray sitting, being an action by the Russia Cement Company against The LePage Glue Company to recover damages for the wrongful use of the name "LePage" in connection with glues manufactured by the defendant.

The decision in Hoxie vs. Chaney, 143 Mass. 592, is thus stated by the court in Russia Cement Company vs. LePage, 147 Mass. 206:

"It was there held that 'A. N. Hoxie's Mineral Soap,' and 'A. N. Hoxie's Pumice Soap,' were trade-marks, and assignable as such, and that they did not necessarily mean that the soaps were made by A. N. Hoxie. Where one who had adopted these trade-marks, or, more properly, trade-names, for his manufacture, entered into a partnership with another under articles by which he contributed the good-will of the business he was carrying on, with the tools, implements, and fixtures, and on the dissolution of this partnership conveyed to his partner 'all my right, title, and interest in and to all and singular the partnership property belonging to the firm, meaning hereby to sell and convey all my interest in the entire assets of the firm,' it was

further held that these trade-names became, by the articles of co-partnership, a part of the property of the firm, and that the right to use them as such passed by the bill of sale, and that the partner so conveying had parted with his own right so to do."

In Chas. S. Higgins Company vs. Higgins Soap Company, 144 N. Y. 462, the defendant was enjoined from carrying on the soap business in its corporate name. In 1890 the plaintiff corporation, organized by Charles S. Higgins and others, purchased from him and his partner the soap business originally established by the father of Charles S. Higgins, in 1846, to which business Charles S. Higgins succeeded on the death of his father in 1860, together with the good-will, labels, trade-marks, and other property employed in the business. The plaintiff and its predecessors manufactured a great variety of soaps, all of which passed under the general name of "Higgins' Soap," and the plaintiff corporation, although the word Soap was not part of its corporate title, was sometimes known as the "Higgins Soap Company." On its organization and acquisition of the old business Charles S. Higgins became its first president, and so continued for a year, when he was displaced. Soon afterwards, in the summer of 1892, he, with his wife, his son, and two other persons, organized the defendant corporation under the name of the "Higgins Soap Company."

The lower court refused an injunction on the ground "that Charles S. Higgins or the members of his family, either separately or jointly, had the right to establish the soap business, and to use the name of Higgins in conducting it, and to designate the product as 'Higgins Soap,' and that no right of the plaintiff was invaded by giving to the corporation formed by them the name of 'Higgins Soap Company.'" The court of appeals reversed the judgment and directed an injunction. Andrews, C. J., said:

"It can not be doubted upon the findings that the reputation of 'Higgins Soap,' when the defendant corporation was organized, applied to, and designated to the trade, the soap manufactured by the plaintiff and its predecessors. The promoters of the defendant, knowing the history of the business established by Higgins, Sr., in 1846, its transfer to the plaintiff, that the product was known to the trade as 'Higgins Soap,' that the business had become very valuable, and that large sums had been expended in advertising it, proceeded to organize the defendant corporation under the name of the 'Higgins Soap Company,' and to manufacture soap in the same city where the plaintiff's business was carried on. The inference seems irresistible that the defendant assumed its corporate name so that it should carry the impression that it was the manufacturer of 'Higgins Soap,' so well known to the public."

In Dodge Stationery Company vs. Dodge et al., 145 Cal. 380, the defendant corporation, the "J. S. Dodge Company," was enjoined from carrying on the stationery business in its corporate name, and J. S. Dodge was enjoined from carrying on that business in "the city and county of San Francisco, under the simple designation 'Dodge' or 'Dodge's,' or with signs containing those words alone, without a qualifying statement to the effect that the business so carried on is not the business heretofore carried on by plaintiff under the name 'Dodge's' at No. 112 Post Street and No. 123 Grant Avenue, and from in any manner representing that any such business carried on by him is the same business heretofore carried on by plaintiff, or from in any way designating such business simply 'Dodge' or 'Dodge's'."

The defendant, J. S. Dodge, had been one of the incorporators of the plaintiff, which was organized in 1894, and was its first president and general manager until September, 1900, when he sold his stock and retired. Within a few months thereafter he, with four others, organized the defendant corporation under the name of the "J. S. Dodge

Company," and started the stationery business in a store close to that of the old concern. They displayed signs containing simply the word "Dodge" in large letters and a marble slab in the side-walk in front of the store containing simply the words "Dodge, Stationer." The court awarded the injunction, not on the ground of any contractual obligation on the part of Dodge to the plaintiff, but on the ground that the plaintiff's trade-name and good-will had been unlawfully invaded. The court said:

"The question, then, is as to whether, upon these facts, plaintiff was entitled to any relief, and, if so, the extent thereof. This action is not based upon the theory that by the sale of his stock in plaintiff corporation there was any transfer by defendant Dodge of the good-will of the business or of any good-will. The vendor of stock in a corporation has no vendible interest in the good-will of the business carried on by the corporation, and can not transfer any part thereof. The good-will of a business conducted by a corporation is the property of the corporation alone, and can be transferred only by it. It is not claimed, therefore, that Dodge, by the sale of his stock, contracted not to engage in the stationery business. * * * Admittedly, defendant Dodge, having terminated his connection with plaintiff, had the right to engage, whenever and wherever he saw fit so to do, in the same character of business as that carried on by plaintiff. Nor is the action based upon the claim of any proprietary interest in the name 'Dodge's' or 'Dodge.' The basis of plaintiff's action is that defendants are attempting by fraudulent representations, to the effect that plaintiff's business is defendant's business, to appropriate the benefit of the good-will of plaintiff's established business."

In Holmes, Booth & Haydens vs. The Holmes, Booth & Atwood Manufacturing Company, 37 Conn. 278, the respondent corporation was enjoined from carrying on business in its corporate name or in any name in imitation of that of the petitioners. The plaintiff was organized in 1853, the corporate title being made up of the names of Israel

Holmes, John C. Booth, Henry H. Hayden and James A. Hayden, who were four of the five original stock-holders. In 1868 Israel Holmes, who was president, and John C. Booth, who was secretary of the petitioner, resigned. Shortly thereafter they and Atwood, who was in petitioners' service as superintendent of one of its departments, organized the respondent corporation under the name of "The Holmes, Booth & Atwood Manufacturing Company," for the purpose of carrying on the same kind of business as the petitioners. The court found (p. 281) that "by reason of the similarity of the names of the two companies confusion has resulted in their correspondence, and letters of important and confidential character, intended for one company, have, in consequence either of mistake in the address on the part of the writer, or of delivery on the part of the post office, been received and read by the other. Miscarriage of goods has also, to some extent, for the same reason occurred. And by reason of this similarity dealers in the market are likely to be confused and misled into the belief that the companies are the same."

In ordering an injunction the court said (p. 294):

"We do not wish to be understood as deciding that the respondents may not, in any legitimate way, indicate to the trade that their business had the benefit of the experience, skill and reputation of these gentlemen. But the simple question is, have they a right to do it by a substantial use of the petitioners' name."

In Myers vs. Kalamazoo Buggy Company, 54 Mich. 215, plaintiff had acquired "the property, money, assets and goodwill" of a firm which carried on business under the name of the Kalamazoo Wagon Company. Subsequently one of the members of the firm and others organized a corporation under the name of the Kalamazoo Buggy Company. The court enjoined them "from conducting the business

of manufacturing carriages, wagons, buggies and cutters under the name of the Kalamazoo Buggy Company, either as designating a corporation or other business association of said defendants, and from issuing and distributing circulars and business cards under that name, and from soliciting custom by the agency of traveling salesmen or otherwise from the customers of the firm known as the Kalamazoo Wagon Company who were the customers of this firm on the fifth day of April, 1883, in any manner, under the name of the Kalamazoo Buggy Company." The defendants in their answer denied that they selected the name Kalamazoo Buggy Company to injure the Kalamazoo Wagon Company, or its good-will, and insisted that they selected the name because it correctly represented their business and the village in which they were located, and denied that complainant had been at all injured by the use of such name, or the good-will of its business impaired.

Cooley, C. J., in delivering the opinion of the court, said, p. 548:

"We are satisfied that the circuit judge was right in his conclusion that the complainant has suffered serious wrong at the hands of these defendants. He purchased of Lane and his wife for a consideration, the adequacy of which is not disputed, all their interest 'in the property, assets, money, good-will, and all other property, of every name and nature, in and to the firm of the Kalamazoo Wagon Company,' and he was entitled to be put in possession of what he bought. The good-will was a substantial part of the purchase, and purposely to take any steps to prevent his receiving the benefit of it was a wrong of the same nature as would have been the retention of some portion of tangible property belonging to the stock of the company. This good-will is to be found in the probability that the old customers of the establishment, whose dealings with it have been satisfactory to them, will continue their custom and commend it to others; and if those customers were to be invited and enticed away from the old

establishment, and especially if they were to be deceived into dealing with a new establishment under the belief that it was the old, the value of the business thus lost would be so much taken from the value of the good-will which had been bought and paid for; and the invitation, enticement, or deception that caused the loss would constitute a wrongful appropriation of property."

In Smith vs. Brand & Co. 58 Atl. (N. J.) 1029, which was an action by a retiring partner against the purchaser of the old firm's assets, good-will, etc., to restrain him from using the old firm name, "Brand & Smith," the court, after holding that the old firm name passed by the conveyance of the good-will, said, p. 1030:

"The trade name of 'Brand & Smith' was a valuable asset of that firm; it was conveyed to the purchaser and present holder by this complainant and his partner, and the right to conduct the business under that name became the exclusive property of the purchaser; and certainly the complainant, having joined in the sale of the good-will, and received and appropriated the proceeds of a part of that sale, ought not now to be permitted to complain that the purchaser is using what he bought and paid for in the only way in which he can make such purchase available."

In Trego vs. Hunt (1896), App. Cas. 7, the House of Lords held that the vendors of a business with its good-will are not entitled to solicit especially the customers of the old concern, or to do anything which will weaken their habit of dealing with the old concern. They approved LaBouchere vs. Dawson, L. R. 13 Eq. Cas. 322, where the vendor of good-will was restrained "from in any way endeavoring to obtain the custom of such of the customers of the plaintiff as were customers of the old concern, or from attempting to take away any portion of the business bought by the plaintiff." They held that there is "an implied contract to abstain from doing any act intended to deprive the purchaser of that which has been sold to him, and to restore it to the vendor."

In Duryea vs. National Starch Mfg. Co., 79 Fed. 651, cited by respondents, the court, at p. 652, said:

"It can not be denied that, by continuous and rightful use for forty years, the name of 'Duryea's Starch' had become identified with its 'source of manufacture,' and that an attempt by persons of the name of 'Duryea,' or of any other name, to put upon the market their own product, under the name of 'Duryea's Starch,' could be suppressed."

The court refused on injunction, because the defendant did not use the trade name of the old concern "Duryea's Starch."

In Howe Scale Company vs. Wyckoff, Seamans, & Benedict, 198 U. S. 118, cited by respondents, the Remington-Sholes Typewriter Company, whose machines the defendant, the Howe Scale Company, sold, was organized by Franklin Remington, Carver Remington and Z. G. Sholes. None of them ever had any interest in E. Remington & Sons, whose typewriter business had been acquired by the plaintiff, Wyckoff, Seamans & Benedict. Franklin Remington and Carver Remington were not children of E. Remington, who died in 1863, but of Samuel Remington (pp. 121, 122). The opinion states "that neither of them was paid for the use of his name, and neither had parted with the right to that use," p. 140. Nor was there any attempt by the defendants to use improperly the business title and trade name of the plaintiff. On the contrary the defendant company widely advertised that its machine was not the "Remington Standard Typewriter," and its catalogue declared: "We state, then, emphatically that this company has no connection whatever with that well-known and excellent machine, the Remington Standard Typewriter, and caution possible customers against confusing the 'Remo-Sho,' with that machine or any other," p. 124.

IV.

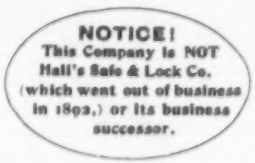
The Injunction awarded by the court of appeals is inadequate on any theory of the plaintiff's rights.

It is in the following terms. R. 515, 516:

"The defendant, the Hall's Safe Company, its servants, agents, officers and employees are perpetually enjoined from carrying on the safe or vault business in the name of the Hall's Safe Company or any other name having similarity to the name Hall's Safe & Lock Company, without also giving information to the public that it is not the business formerly carried on by the Hall's Safe & Lock Company; and from marking, advertising or otherwise designating its safes and vaults as the products of the Hall's Safe & Lock Company, or its successors in business, or pretending that it is carrying on the business started by Joseph Hall and continued by the Hall's Safe & Lock Company, and from interfering in any manner with the exclusive right of the complainant to possess and enjoy the good-will acquired by the Hall's Safe & Lock Company, and from using the trade-name of said last named company without at the same time so qualifying such trade-name as to show that the trade-name used is not the one formerly used to designate the products of the Hall's Safe & Lock Company."

The injunction was awarded on the theory that the plaintiff's title to the good-will of Hall's Safe & Lock Company, and its right to use the trade name, "Hall's Safes," is subject to the right of the defendants to use their family name honestly; but even on that assumption the decree affords no adequate protection to the plaintiff. It allows the defendants to carry on business in the name of Hall's Safe Company, or any other name having similarity to that of the old concern, provided they give information to the public that it is not the business formerly carried on by the old concern. How or when or in what manner they are to give the information is not specified. The information is not required to accompany the use of the name; and the

defendant, therefore, since the decree has used and now uses the name "Hall's Safe Company" on signs, on its safes, and in advertisements, without any *accompanying* notice "that it is not the business formerly carried on by the Hall's Safe & Lock Company." When they give any notice on that subject at all it is in the following form, printed in red ink on their letter-heads and envelopes:



The notice in that form was of course adopted for the purpose of depriving the plaintiff, as far as possible, of the good-will of the old concern.

The injunction against "marking, advertising or otherwise designating its safes and vaults as the products of the Hall's Safe & Lock Company" is not understood by the defendants as enjoining them from advertising their safes as "Hall's Safes," or from marking them merely with the words "The Hall's Safe Co., Cincinnati," or "Manufactured by The Hall's Safe Company, Cincinnati," which they continue to do.

The injunction against "using the trade-name of the Hall's Safe & Lock Company without at the same time so qualifying such trade-name as to show that the trade-name used is not the one formerly used to designate the products of the Hall's Safe & Lock Company" is too indefinite to be understood by the defendants as requiring anything, or to be capable of enforcement against them. It does not specify what trade-name is intended, or, assuming that "Hall's Safes" is meant, what qualification thereof is required.

The injunction against "interfering in any manner with the exclusive right of the complainant to possess and enjoy the good-will acquired by the Hall's Safe & Lock Company" is a glittering generality.

An injunction should be definate and specific. In Swift & Company vs. United States, 196 U. S. 375, 401, Mr. Justice Holmes said:

"The general words of the injunction 'or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid,' should be stricken out. The defendant ought to be informed as accurately as the case permits what they are forbidden to do. Specific devices are mentioned in the bill, and they stand prohibited. The words quoted are a sweeping injunction to obey the law, and are open to the objection which we stated at the beginning, that it was our duty to avoid."

The same objection to an indefinite injunction was pointed out by Mr. Justice White in New York, New Haven & Hartford Railroad Company vs. Interstate Commerce Commission, 200 U. S. 361, 404.

In Singer Manufacturing Company vs. June Manufacturing Company, 163 U. S. 169, 204, the defendant was enjoined "from using the word 'Singer' or any equivalent thereto, in advertisements in relation to sewing machines, without *clearly and unmistakably stating in all said advertisements* that the machines are made by the defendant, as distinguished from the sewing machines made by the Singer Manufacturing Company," and "from marking upon sewing machines or upon any plate or device connected therewith or attached thereto the word 'Singer,' or words or letters equivalent thereto, without *clearly and unmistakably specifying in connection therewith* that such machines are the product of the defendant or other manufacturer, and therefore not the product of the Singer Manufacturing Company."

In Dodge Stationery Company vs. Dodge et al., 145 Cal. 380, the court required the use of the name to be accompanied, in every instance, by an express and conspicuous statement that the business was not the business theretofore carried on by the plaintiff.

In Singer Manufacturing Company vs. June Manufacturing Company, 163 U. S. 169, 188, Mr. Justice White said:

"Where the name is one which has previously thereto come to indicate the source of manufacture of particular devices, the use of such name by another, unaccompanied with any precaution or indication, in itself amounts to an artifice calculated to produce the deception alluded to in the foregoing adjudications."

To permit the defendants to use the trade name "Hall's Safes," coupled with the statement that the safes are made by the Hall's Safe Company, only aggravates the infringement, for Hall's Safe Company is substantially the name of the old concern, and the whole statement amounts to a representation that the defendants sell "Hall's Safes," made by the old concern.

V.

The plaintiff was entitled to an injunction against the individual defendants.

It was they who organized the defendant corporation and directed the infringement of the plaintiff's rights as owner of the good-will of the old concern, and the plaintiff was entitled to an injunction against them. They were the real actors and in any view joint tort-feasors. Under the decree of the court of appeals they are left free to form another corporation with the same name, or to organize a firm under that or a similar name. They are the real claimants, and the plaintiff's rights should be adjudicated as

against them in this case, and not be left open to future litigation. We respectfully submit that the court of appeals erred in dismissing the bill as against them.

VI.

The cross-bill was properly dismissed.

The court of appeals said (R. 516):

"In respect to the matter of the cross-bill, we think there is no substantial ground for complaint. For the reasons stated in the preceding opinion we are not prepared to say that the complainant in the original bill has exceeded its rights in endeavoring to maintain the benefits of its purchase from the Hall Safe & Lock Company."

The claim that the plaintiff was not entitled to a decree on its bill because it had been guilty of false representations, and that the defendant was entitled to a decree on its cross-bill, is based upon the erroneous assumption that the plaintiff did not acquire the right to use the old name in connection with the business which it purchased. Goodwill or a trade-mark or a trade-name may not be sold by itself, but it may be transferred in connection with the sale of a plant, and it is no fraud on the public for the purchaser to use the old name or mark.

In Brown Chemical Co. vs. Meyer, 139 U. S. 540, 548, the court sustained the right of Lincoln, who had purchased Brown's interest in Brown's Iron Tonic, to continue to use that name. It was claimed that Brown "could not transfer such right to a person of a different name, and thereby authorize the latter to make use of it," because it would be a fraud on the public. Mr. Justice Brown, in overruling this contention, said:

"There are a few cases indicating that the mere right to use a name is not assignable, notably Chadwick vs. Covell, 151 Mass. 190, but none that it may not be assigned to (by)

an outgoing partner or to a successor in business as an incident to its good-will. Ainsworth vs. Walmesley, L. R. 1 Eq. 518; Derringer vs. Plate, 29 Cal. 292."

To the same effect are:

Menendez vs. Holt, 128 U. S. 514.

Kidd vs. Johnson, 100 U. S. 617.

Richmond Nervine Company vs. Richmond, 159 U. S. 293, 302.

The only limitation upon the right of one who has purchased the good-will of a business to use the name of the former owner is "that he must not exercise that right so as to expose the assignor to any liability by holding him out to be the real owner of the business. That is the only limit of the defendant's right to use the plaintiff's name." Thynne vs. Shove, 45 Ch. D. 577, at page 580.

The defendants say that the plaintiff has not the right to use the title Hall's Safe & Lock Company because it may expose them to liability as stockholders of that company. But the plaintiff does not use the title Hall's Safe & Lock Company in making contracts, and the individual defendants are not in fact stockholders in any Hall's Safe & Lock Company and incur no liability, as stockholders or otherwise, on account of any use plaintiff makes of that name.

In Levy vs. Walker, 10 Ch. D. 436, Miss Charbonnel and Miss Walker carried on business in partnership in London under the name of Charbonnel and Walker. Miss Charbonnel married Levy, and the business and good-will were purchased by Miss Walker, who continued the business under the name of Charbonnel and Walker, as before. Mr. and Mrs. Levy sought an injunction to prevent Miss Walker from using the name Charbonnel and Walker. Jessel, M. R., refusing the injunction, said, p. 447:

"The plaintiffs are under no liability by reason of Miss Walker so carrying on the business. Plaintiffs are not actual

partners in the firm of Charbonnel and Walker. The dissolution decreed by the court has been duly advertised, and no person dealing with Miss Walker for the first time can make Mr. or Mrs. Lævy liable."

From 1895 on Herring-Hall-Marvin Company, with the knowledge and consent of defendants, and while they were directors of the company, used "Hall's Safe & Lock Works" as a title, painting it in large letters on the factory buildings and printing it on all letter-heads, bill-heads, etc., and in every way advertising "Herring-Hall-Marvin Company, successors to Hall's Safe & Lock Co., operating Hall's Safe & Lock Works."

The value and persistence of the name is illustrated by the fact, that notwithstanding the lapse of twelve years, letters were received every day addressed to Hall's Safe & Lock Co. If there were occasional miscarriages of letters intended for the appellants they have only themselves to blame, in having wrongfully adopted a title substantially the same as that of the old concern.

Conclusion.

If "Hall's Safes" was a trade-name indicating the source of manufacture, and was sold to plaintiff's predecessor, the right acquired was necessarily exclusive.

In Russia Cement Company vs. LePage, 147 Mass. 206, 211, the court said:

"When Le Page, with Brooks, sold to the corporation, and when he left the corporation, it must be held that the name 'Le Page's Liquid Glue' was a trade-name or trade-mark, and it is not important which term is used, indicating the liquid glue which the plaintiff was manufacturing. *The right to use it as such was necessarily an exclusive use, as it was intended thus to distinguish the plaintiff's goods from those of others.*"

In the case between the same parties in the United States circuit court of appeals for the first circuit, Mr. Justice Gray sitting, the court in speaking of the right which the purchaser of the assets and good-will of the former business acquired, said (51 Fed. 945):

"The essential thing is its right to inform the public that it is in the exclusive possession of all the advantages coming to it as the legitimate successor of the original formulator of 'Le Page's Glue,' and is alone entitled to put on the market that product, supposed to be composed or manufactured with special skill, and known to come from the original and long established concern."

In Levy vs. Walker, 10 Ch. D. 436, 449, James, L. J., delivering the opinion of the court of appeals, said:

"I think it right to say that a sale of the good-will and business conveyed the right to the use of the partnership name as a description of the articles sold in that trade, and that that right is an exclusive right as against the person who sold it and an exclusive right as against all the world, so that no other person could represent himself as carrying on the same business."

In Kidd vs. Johnson, 100 U. S. 617, 619, Mr. Justice Field, in sustaining the title of purchasers of a trade-mark, said:

"*Such use to be of any value, must necessarily be exclusive.* If others also could use it, the trade-mark would be of no service in distinguishing the whiskey of the manufacture in Cincinnati; and thus the company would lose all the benefit arising from the reputation the whiskey there manufactured had acquired in the market."

We respectfully submit that the decree of the court of appeals should be reversed, and that an injunction should be awarded adequately protecting the plaintiff in the enjoyment of the good-will which its predecessor purchased, and

in the use of the trade-name of the old concern, and that a reference should de directed to take an account of damages.

LAWRENCE MAXWELL, Jr.,
Counsel for Petitioner.

CHARLES H. ALDRICH,
Of Counsel.

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Supreme Court of the United States.

OCTOBER TERM—1906.

HERRING-HALL-MARVIN SAFE COMPANY,
Petitioner,

vs.

THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL and CHARLES O. HALL,
Respondents.

No. 136

Cross Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit.

JUDSON HARMON,
WILLIAM. C. COCHRAN,
Counsel for Respondents and Cross Petitioner.

Supreme Court of the United States.

OCTOBER TERM—1906.

HERRING-HALL-MARVIN SAFE COMPANY,
Petitioner.

vs.

THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL and CHARLES O. HALL,
Respondents.

No.

To the Chief Justice and Associate Justices of the Supreme Court of the United States:

The Respondent and Cross Petitioner, The Hall's Safe Company, prays for a writ of certiorari to review the decree of the United States Circuit Court of Appeals for the Sixth Circuit in the case in that Court, numbered 1494 on its docket, in which petitioner was appellee and the respondents and cross-petitioner were appellants.

Respondent and cross-petitioner hereto annexes a statement of the case and of the grounds for this cross-petition. It refers to the copies of the record in the Circuit Court which were printed under the supervision of the clerk of the Court of Appeals and a certified transcript of the subsequent proceedings in the Court of Appeals heretofore filed by the petitioner in this Court.

JUDSON HARMON,
WILLIAM. C. COCHRAN,
Counsel for Respondents and Cross-Petitioner,
The Hall's Safe Co.

Statement of the Case.

In May, 1892, Hall's Safe & Lock Company, a corporation under the laws of Ohio, sold and transferred to Messrs. Cox & Segur all of its property, business and good will, pursuant to a written agreement which provided as a *condition precedent* that a new corporation should be organized under the laws of New Jersey, *to be called Herring-Hall-Marvin Company*, which should take over and carry on this business and simultaneously acquire the business, property and good will of Herring & Co., Farrel & Co., Myers & Smith, and The Marvin Safe Company. Such a company was duly organized, before the sale and transfer took place, and its Articles of Incorporation provided:

> "*First*, That the name which we have assumed to designate such company, and to be used in its dealings, is Herring-Hall-Marvin Company."

Hall's Safe & Lock Company retained its corporate name and franchise and its stockholders retained their stock, not a share of which, at any time, passed to the purchasers. The right to use its corporate name was not granted and the expression "trade names" was not used in any of the documents constituting the chain of title. The bill of sale contained the provision, which was in accordance with the original agreement:

> "That said Hall's Safe & Lock Company, will not hereafter engage in or carry on any business whatsoever and it will as soon as practicable pay and discharge all its debts and liabilities and that it will thereupon go into liquidation and procure itself to be wound up and dissolved in accordance with the laws of the state of Ohio."

These provisions as to the name of the new company and the dissolution of the old company were not only assented to by the stockholders of Hall's Safe & Lock Co., but were inserted for their protection and to secure the right of such of them as were named "Hall" to use their family name in business without danger of confusion, if at any time in the future it should seem to be for their interests to engage in the safe business.

The purchasers were informed at all stages of the negotiations that the *name* of the company would not be sold. The name, "Hall," could only be used as a part of the stipulated corporate name, Herring-Hall-Marvin Co., which could readily be distinguished from any name the Halls were likely to adopt if they embarked in the safe business again on their own account.

Edward was at this time 41 years old, William H. Hall, 35, and the others, still younger. All had been brought up in the safe trade and had acquired a practical knowledge of the manufacture and sale of safes and vaults in all their branches. Their holdings and stock in Hall's Safe & Lock Co., were comparatively insignificant, only 22 and 10 shares respectively, out of a total of 3,591 shares. They had no intention of retiring

from the only business with which either was acqainted, and they knew that as holders of but a few shares of the capital stock of the new company they could not be sure of retaining employment with it for any number of years.

Edward C. Hall and William H. Hall, did enter into contracts with the new company, by virtue of which they agreed to serve for stipulated salaries as officers and directors until the fourth day of May, 1897, or longer if desired by the said company, and each further agreed that he would not, so long as the Herring-Hall-Marvin Co. desired to retain his service as above, engage

> "in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults or safes, or in any business or occupation, such as the said corporation known as Hall's Safe & Lock Company has heretofore been engaged in, or the said Herring-Hall-Marvin Co. is authorized or impowered to engage in, or in any other business which will compete or interfere with the business of the said Herring-Hall-Marvin Co."

If the Herring-Hall-Marvin Co. cared to prevent them from engaging in the safe business and using their own names in such business, all it had to do was to comply with its obligations under these individual agreements. The fact that it made them is sufficient evidence that it did not rely on the Company's bill of sale to restrain them from active competition.

It is not disputed that the corporation, Hall's Safe & Lock Co., carried out its contract to the letter. It ceased to do business, went into liquidation and caused itself to be dissolved by legal proceedings, the decree of dissolution being entered July 5th, 1895.

It is not disputed that Edward C. Hall and William H. Hall faithfully performed their duties as officers and directors of the new company, for more than four years and until the summer of 1896, when the company deposed them from office, and cut down their stipulated salaries. They then asked and received their discharge and full release from any and all obligations to the company under their said contracts, to take effect August 1st, 1896.

In September of that year, they, with three brothers, incorporated under the laws of Ohio, and adopted the name,

THE HALL'S SAFE COMPANY

which is quite distinct from the much longer name,

HALL'S SAFE AND LOCK COMPANY

and of course as remote as possible from

HERRING-HALL-MARVIN COMPANY.

Their product was always marked with their corporate name and the place of manufacture, and since August, 1902, has been further marked with a trade mark, specially designed to distinguish it from the work of all other safe manufactures, ancient or modern.

For a limited period, beginning December, 1900, and extending to February, 1902, they and dealers in their goods advertised "Hall's Safes" for sale. Upon complaint being made, they desisted and notified all dealers in their goods to refrain from such advertising. They contend, nevertheless, that they have the perfect right to manufacture safes in strict accordance with the patents of Joseph L. Hall, all of which have long since expired, and to advertise and sell them as "Hall's Safes" and to call attention to their fire-resisting qualities as tested in the great fires of Chicago, Boston, Lynn, &c., which qualities were due to special methods of manufacture and the use of materials patented by Joseph L. Hall, the safes having acquired their reputation and popular designation as "Hall's Safes," while he was protected in the exclusive right to manufacture such safes by letters patent of the United States.

Suit was brought, July 1, 1904, by the Herring-Hall-Marvin *Safe* Co., as successor to Herring-Hall-Marvin Co., against respondents to enjoin them

> "from carrying on the business of manufacturing or selling fire proof or burglar proof safes, or vaults under the name of "The Hall's Safe & Lock Co." or any other *trade name* substantially or essentially the same and calculated to *deceive the public or intending purchasers into the belief that they are dealing with your orator, or, with the establishment founded by said Joseph L. Hall and carried on by your orator when they are dealing with the defendant*, and from marking them with that name."

In a cross-bill filed by The Hall's Safe Co. it was alleged among other things that plaintiff

> "Well knowing that said Hall's Safe & Lock Co. has not been in business since May, 1892, and that it was wound up and dissolved more than four years before complainant was incorporated, it has falsely represented to the public that said Hall's Safe & Lock Co. is still in existence and manufacturing safes in Cincinnati by placing on its envelopes and stationery the words,

"HALL'S SAFE & LOCK CO., CINCINNATI, O."

"From HALL'S SAFE & LOCK WORKS,

225 W. PEARL, CINCINNATI, OHIO."

> by inserting in business, telephone and general directories of the cities of Cincinnati, New York, Chicago, St. Louis, San Francisco and Baltimore in bold type the name

"HALL'S SAFE & LOCK CO."

> and giving in connection therewith the street and number of complainant's stores and telephones in such cities, but not its name, thereby intending to induce the public to believe that said Hall's Safe & Lock Co. is still in existence and doing business at those places; and by causing advertisements to be inserted in various newspapers like the following

THE ONLY OFFICE OF

Hall's Safe and Lock Company,

Of Cincinnati, Ohio,

IS LOCATED AT

Hoen Building

Lexington and North Sts.

MAKE NO MISTAKE

Telephones { **Courtland 970** / **Mt. Vernon 2506**

that being the address of plaintiff's store in Baltimore, Md.

Respondents claimed that such false and deceptive advertising disentitled the plaintiff to any relief in a court of equity, and in the cross-bill prayed among other things that plaintiff be enjoined

> "from carrying on the business of manufacturing and selling fire or burglar proof safes, vaults, etc., under the name of "Hall Safe & Lock Co.," "Hall's Safe & Lock Works," or under any other name than the name whereby it is authorized by its articles of incorporation to contract and sue and to be sued, to-wit, Herring-Hall-Marvin Safe Co.," and from inserting the name "Hall's Safe & Lock Co." in any directories or publications, or in advertisements, and from using said name on its signs,

> stationery and envelopes, * * * and from doing any act tending to * * * lead the public to suppose that Hall's Safe & Lock Co. is still in existence and manufacturing safes."

The suit was brought, the evidence taken and the case prepared by complainant on the theory that Hall's Safe & Lock Co. had acquired the exclusive right to the use of the family name "Hall" in the safe business and that this exclusive right passed to Herring-Hall-Marvin Company by virtue of the sale and transfer of its business, property and good will, and from that Company through its receivers to complainant. This court announced its decision in *Howe Scale Co.* v. *Wyckoff*, just before the argument of the case in the Circuit Court and counsel for complainant shifted his ground to suit the emergency. He then contended that the Halls had deprived themselves *by contract* of their natural rights to use their family name in the safe business, and called the attention of the court—not to the *individual* contracts which Herring-Hall-Marvin Co. made with Edward C. Hall and William H. Hall—but to the Bill of Sale of the corporation, Hall's Safe & Lock Co., to Cox & Segur. Counsel for plaintiff persuaded the Circuit Court to take this view of the law, as they did the Circuit Court for the Northern District of Illinois and the Circuit Court of Appeals for the Seventh Circuit.

The Circuit Court found for the plaintiff and decreed an injunction and accounting, substantially as prayed

for in the Bill of Complaint and dismissed the case, and the Circuit Court of Appeals reversed in part and directed a dismissal of the Bill as against the defendants, Edward C. Hall, William H. Hall and Charles O. Hall, and a modified injunction, against The Hall's Safe Co., in the following terms, viz:

> "The defendant, The Hall's Safe Co., its servants, agents, officers and employees are perpetually enjoined from carrying on the safe or vault business in the name of The Hall's Safe Company, or any other name having similarity to the name Hall's Safe and Lock Company, without also giving information to the public that it is not the business formerly carried on by the Hall's Safe and Lock Company; and from ~~naming~~ marking, advertising or otherwise designating its safes and vaults as the products of the Hall's Safe and Lock Company or its successors in business, or pretending that it is carrying on the business started by Joseph L. Hall, and continued by the Hall' Safe and Lock Company; and from interfering in any manner with the exclusive right of the complainant to possess and enjoy the good will acquired by the Hall's Safe and Lock Company, and from using the trade name of said last named company without at the same time so qualifying such trade name as to show that the trade name used is not the one formerly used to designate the products of the Hall's Safe and Lock Company."

The decree dismissing the cross-bill was affirmed and the costs of the appeal were divided between the parties,

indicating that, in the judgment of the Court of Appeals, each party was about *half* right.

Grounds for the Cross-Petition.

None of the defendants were parties to the suit of Hall's Safe & Lock Co., of Illinois, vs. Herring-Hall-Marvin Safe Co., decided by the Circuit Court of Appeals for the Seventh Circuit. They are in no way bound by the decree affirmed in that Court, yet, indirectly, they are seriously affected by it; for, while that decree stands unreversed and the law is accepted as stated in the opinion of the Circuit Court of Appeals, dealers in safes throughout the Seventh Circuit are afraid to buy and sell safes made by The Hall's Safe Co., and bearing its corporate name.

We do not, therefore, oppose the application, for a writ of certiorari in the case of *James W. Donnell* vs. *Herring-Hall-Marvin Safe Co., et al*, or the application for the writ of certiorari made by Herring-Hall-Marvin Safe Co., in this case. On the contrary, we hope the Court will grant a writ in each case and bring all questions here for review.

We base our cross-petition for a writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit, upon what we consider erroneous conclusions of law, by that Court, conflicting with recent and well known decisions of this Court, of Circuit Courts of Appeals in other Circuits, and of the House of Lords in England.

I.

We think the Court of Appeals erred in finding that complainant acquired the right to use the name "Hall's Safe & Lock Co." in its business. Such a right could only be granted in *express terms* or by necessary implication. The language of the various documents constituting the chain of title and the circumstances negative the idea that the new company was to use the name Hall's Safe & Lock Co. We think the decision in conflict with

Knoedler v. *Boussod*, 47 Fed. 465, 466.
Knoedler v. *Glaenzer*, 55 Fed. 895, 896, 899.
Bassett v. *Percival*, 5 Allen 345, 347.
Lawrence, Admr. v. *Hull*, 169 Mass., 250, 251, 252.
Marcus Ward & Co. v. *Ward*, 40 N. Y. St. 792.
Morgan v. *Schuyler*, 79 N. Y. 490, 494.
Cottrell v. *Babcock Printing Press Mfg. Co.*, 54 Conn. 122, 138, 139.
Williams v. *Farrand*, 88 Mich. 475, 483, 489, 494.

II.

We think the Court of Appeals erred in not dismissing complainant's bill, because of false representations that Hall's Safe & Lock Co. was still in existence and doing business and thus misleading the public. We do not contest its right to announce itself as the *successor* of Hall's Safe & Lock Co. They would then receive the credit that a *successor* is entitled to and no more. The Circuit Court of Appeals failed to apply the principles of equity stated in

Manhattan Medicine Co. v. *Wood*, 108 U. S. 222, 227.

Worden v. *California Fig Syrup Co.*, 187 U. S. 516.
Knoedler v. *Glaenzer*, 55 Fed. 895, 900.
Uri v. *Hirsch*, 123 Fed. 568.
Raymond v. *Royal Baking Powder Co.*, 29 C. C. A. 245, 249.

III.

We think the Court of Appeals erred in dismissing the cross-bill of The Hall's Safe Co., asking that plaintiff be enjoined from making such representations and from doing business in the name of Hall's Safe & Lock Co.

This is a corollary to the preceding propositions and rests upon the same grounds and authorities.

IV.

We think the Court of Appeals erred in requiring The Hall's Safe Co. to accompany the use of its corporate name with

> "explanatory matter showing that the product was their own and not that of the old company or its successor in business."

and in enjoining them from carrying on the safe or vault business in the name of

> "The Hall's Safe Company, or any other name *having similarity* to the name 'Hall's Safe & Lock Company' without also giving information to the public that it is not the business formerly carried on by the Hall's Safe & Lock Company."

The only similarity in the names is due to the presence of the family name "HALL". The important words "AND LOCK" are omitted.

These restrictions on the natural right of the Halls to use their own names in business seem to us unreasonable in view of the fact that complainant has adopted the name Herring-Hall-Marvin Safe Co. by which to designate its safes and there is no possibility of any one's supposing The Hall's Safe Company's safes to be the product of complainant Company. Whether it was *compelled* by the contract of sale to adopt such name, or did so of its own accord, the result is the same. Where there is no danger of confusion in the use by each of its own corporate name, it seems to us onerous and unnecessary to require one to give the public "information" or "explanatory matter", the character or extent of which is wholly undefined, as a condition of doing business at all.

We think this ruling of the Court of Appeals is in conflict with

Canal Co. v. *Clark*, 13 Wall. 311.
Goodyear Co. v. *Goodyear Rubber Co.*, 128 U. S. 598, 604.
Brown Chemical Co. v. *Meyer*, 139 U. S. 544, 547.
Columbia Mill Co. v. *Alcorn*, 150 U. S. 466.
Elgin Nat. Watch Co. v. *Illinois Watch Co.*, 179 U. S. 665, 673.
Montreal Lith. Co. v. *Sabiston*, (1899) App. Cas. 610, 615.

a case which the Court will observe is later in date and much more to the point than *Trego* v. *Hunt*.

See also

Iowa Seed Co. v. *Dorr*, 70 Ia. 481, 485.

Knoedler v. *Glaenzer*, 55 Fed. 895, 899.
National Starch Co. v. *Duryea*, 41 C. C. A. 244, 245, 246.

We take no exception to the injunction against marking,

"~~naming,~~ advertising or otherwise designating its safes and vaults as the product of the Hall's Safe & Lock Company, or its successors in business, or pretending that it is carrying on the business started by Joseph L. Hall and continued by the Hall's Safe & Lock Company."

V.

We think the Court of Appeals erred in agreeing with the Court of Appeals of the Seventh Circuit that no one could advertise and sell safes as "Hall's Safes" unless they were made by the Herring-Hall-Marvin Safe Co. It appears in evidence that the safes popularly known and designated as "Hall's Safes" were made in accordance with sundry patents, granted to Joseph L. Hall and others, assignors to Hall's Safe & Lock Co., all of which patents had expired. From that time any one could manufacture and sell "Hall's Safes," the only restriction on that right being the necessity for marking them with the name and address of the manufacturer, so that the public would not be deceived into buying them as the product of Herring-Hall-Marvin Safe Co. Every safe made by The Hall's Safe Co. was marked with its corporate name and address, and no one ever bought one supposing he was buying the Herring-Hall-Mavin product. To say that respondents may not manu-

facture, advertise and sell "Hall's Safes" made in accordance with the expired patents, is to extend the monopoly in the manufacture of such safes indefinitely and to conflict with the decisions in

Goodyear Co. v. *Goodyear Rubber Co.*, 128 U. S. 598.
Singer Mfg. Co. v. *June Mfg. Co.*, 113 U. S. 169, 185.
Holzapfel's Co. v. *Rahtjens Co.*, 183 U. S. 1, 12, 13.
Dover Stamping Co. v. *Fellows*, 163 Mass. 191, 194.

We respectfully submit that the Circuit Courts of Appeals for the Sixth and Seventh Circuits, have failed to apply to the cases before them—which this Court is now asked to review—the principles of law frequently and consistently announced by this Court in similar cases. In spite of such decisions many of the Circuit Courts of the United States seem to be influenced by the idea, that the first person who uses a family name in his business has the exclusive right to the use of that name in that particular line of business forever after, and can prevent any other person having the same family name from engaging in that business, unless he changes his name, uses some other, or accompanies the use of his own, with explanatory statements, etc., which are onerous, humiliating and impracticable in the ordinary course of business. This exclusive right so attaches itself to and inheres in the business and property, according to some decisions, that the vendor loses his name and the purchaser acquires it although there is no express contract to that effect and although the contract

of sale prescribes that the purchaser shall do business *in another name* and that the selling company shall cease to do business, go into liquidation and be dissolved, retaining its corporate name and franchise until such dissolution is effected. We think it of the utmost importance to the business community that this Court should again announce the conditions under which alone a man may lose the right to the free and unrestricted use of his own name in his own legitimate business.

If the writ of certiorari is granted we shall ask the Court to consider the questions above stated.

Respectfully submitted,

JUDSON HARMON,
WILLIAM C. COCHRAN.

Counsel for Respondents and Cross-Petitioner,
The Hall's Safe Co.

Office Supreme Court, U. S.
FILED.
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JAMES H. McKENNEY,
CLERK

Supreme Court of the United States.

OCTOBER TERM, 1906.

No. [redacted]136.

HERRING-HALL-MARVIN SAFE COMPANY, *Petitioner*,

vs.

HALL'S SAFE COMPANY, EDWARD O. HALL, WILLIAM H. HALL AND CHARLES O. HALL.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

LAWRENCE MAXWELL, Jr.
CHARLES H. ALDRICH,
Counsel for the Petitioner.

[redacted]

Supreme Court of the United States.

OCTOBER TERM, 1906.

No. .

HERRING-HALL-MARVIN SAFE COMPANY, *Petitioner*,

vs.

HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL AND CHARLES O. HALL.

To the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your petitioner, Herring-Hall-Marvin Safe Company, prays for a writ of certiorari to review the decree of the United States circuit court of appeals for the sixth circuit in the case in that court, numbered 1494 on its docket, in which your petitioner was appellee and the respondents, Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall were appellants.

Your petitioner annexes hereto a statement of the case and of the grounds for this petition. It files printed copies of the record in the circuit court, which were printed under the supervision of the clerk of the court of appeals, and distributed by him in that court (one copy duly certified), and a certified transcript of the subsequent proceedings in the court of appeals.

LAWRENCE MAXWELL, JR.
CHARLES H. ALDRICH,
Counsel for the Petitioner.

STATEMENT OF THE CASE.

This was a bill in the circuit court of the United States for the southern district of Ohio, by the petitioner, Herring-Hall-Marvin Safe Company, against the respondents to enjoin them from carrying on the safe business under the name of the Hall's Safe Company, and from advertising their product as "Hall's safes." There was a decree in favor of the plaintiff in the circuit court (Rec. 345), which was reversed by the court of appeals.

The petitioner acquired by mesne conveyances all of the rights of its predecessor, the Herring-Hall-Marvin Company, under a contract made in 1892 (Rec. 114), whereby the Hall's Safe and Lock Company, an old established concern, sold its business as a going concern, including its trade marks, trade rights, good will, and all of its property and assets of every kind and nature wheresoever situated, and covenanted to go into liquidation and to procure itself to be wound up and dissolved. The individual respondents were stockholders and the principal officers of the selling company and became, and for four years remained, officers of the purchasing company, which was organized to continue the business. In 1896 they retired and set up a rival business, organizing for that purpose the respondent corporation to which they gave the name of Hall's Safe Company, and called their product "Hall's Safes."

The circuit court held that the sale in 1892 was substantially a sale of the business and good will of the Hall's Safe & Lock Company by its stockholders and that a court of equity would prevent them from thereafter using the old trade name in a rival business. They were accordingly enjoined from carrying on business in the name of the Hall's Safe Company or in any name similar to that of Hall's Safe & Lock Company, and from marking their product with the name Hall's Safe Company or any name so similar as to mislead the trade or cause mistake (Rec. 346).

The United States circuit court of appeals for the seventh circuit, affirming a decree of the circuit court for the northern district of Illinois, took a similar view of the relations of the individual respondents to the transaction, saying on that subject, in the case of Hall's Safe & Lock Company appellant vs. Herring-Hall-Marvin Safe Co.:

"The general rule for which the appellants contend—that the family surname is 'incapable of exclusive appropriation by any one, as against others of the same name who are using it legitimately in their own business'—is too well settled to require citation or review of the authorities. But the exceptions above mentioned, which make the use illegitimate, are equally well settled, and we are of opinion that the general rule is not applicable to the trade name "Hall" thus applied to the product of the new corporation, and that the use was both fraudulent and in derogation of the rights acquired by the appellee under the conveyance by the original Hall corporation. The fact that such conveyance was not executed by the Halls as individuals can not absolve them from the obligations of a contract, made in the corporate name, wherein they were individually the beneficiaries. As stated in McKinley vs. Wheeler, 130 U. S. 630, 636, 'the court, when necessary, will look beyond the name of a corporation to the individuals whom it represents.' See opinion of Judge Baker, speaking for this court, in Siemens-Halske Electric Co. vs. Duncan Electric Mfg. Co. et al., decided October 3, 1905. The corporate form of the transfer will not be permitted 'to distort or hide the truth' (Anthony vs. American Glucose Co., 146 N. Y. 407, 413), but a court of equity will treat the contract in conformity with its true meaning.

The organizers and owners of this new corporation were not only the Halls who managed the original business, who established and maintained the reputation of the Hall safes, but they personally negotiated the sale of that business and good will to the purchasing corporation, for a large price, and received (as stockholders) a large share of the proceeds; they became managers of the purchasing corporation and so continued for four years, maintaining and enlarging the business and good will so acquired, in the product known as Hall

safes; and thus participating and profiting in the transfer of that valuable asset—which they had given to the selling corporation, through acquiescence, at least, in the use of the family name—their efforts to repossess themselves of its essence, destroying or impairing the value of the property rights granted to the purchaser, are plainly inequitable, and, as we believe, violative of their contract obligations.

In any view of the doctrine of unfair trade, we are of opinion that the appellee is entitled to protection against the sale by these appellants of safes so made and marked as Hall safes, as representatives of the so called Hall's Safe Company, or otherwise. The recent decision in Howe Scale Company vs. Wyckoff, Seamans & Benedict, supra, is relied upon by the appellants for support of their contention that the Halls were not deprived of right to use the family surname by these transactions, but we are satisfied that the case is plainly distinguishable; that the contract elements above mentioned in the case at bar were not there present, and the decision was expressly grounded upon the absence of such obligations, together with the absence of deception or confusion in the use of the name Remington; and that the elements thus appearing in the present case are unmistakably recognized as excepted from the rule thus upheld."

The opposite view of the court of appeals for the sixth circuit, is thus stated in their opinion:

"Counsel for complainant contend that it is entitled to the relief it demands by virtue of the contract between it and the Hall Safe & Lock Company by which it acquired the property and good will of the latter company, and that its rights are not to be measured by the rules and principles which apply in the case of unfair competition in trade. And it is argued that this consideration distinguishes the case from that of Howe Scale Co. vs. Wyckoff, Seamans, etc., 198 U. S. 118, where there was much discussion of the extent of the right of a person to use his own name in the conduct of his business, whether it be his private business or that of a corporate business in which he is associated with others, and reference is made to the language of the chief justice at page 140, where he says: "We hold that in the absence of contract, fraud or

estoppel, any man may use his own name, in all legitimate ways, and as the whole or a part of a corporate name."

Upon this contention it becomes important to determine what were and are the relations between the complainant and its predecessor in title and the several defendants. Undoubtedly the Herring-Hall-Marvin Company acquired by its contract of purchase with the Hall Safe & Lock Company all its physical properties and the good will which it had acquired in its business as well as the right to use such trade names as had been customarily used to identify its products. It acquired also the right to require that the Hall Safe & Lock Company should go out of business, or, in substance, that it should not longer engage in business of the kind which it sold to the Herring-Hall-Marvin Company. But it is contended that the contract reaches beyond the corporation, the Hall Safe & Lock Company, and binds the defendants who were stockholders and officers of the corporation and prevents them and any corporation of which they may become stockholders and managers from doing what the Hall Safe & Lock Company could not do; and the principal reason for this contention is the fact that these individual defendants participated in the sale and as stockholders received its benefits. We are of opinion that this proposition can not be sustained. The contract which the Herring-Hall-Marvin Company had was with the corporation only and not with its stockholders or officers. The officers who conducted the business of the selling company were not parties to the contract. It is a familiar rule that an agent, who having lawful authority makes a contract with another for a known principal, does not bind himself but his principal only. Story on Agency, Section 261; Mechem on Agency, Section 555; Whitney vs. Wyman, 101 U. S. 392."

ARGUMENT.

I.

The opinion of this court in Howe Scale Co. vs. Wyckoff, Seamans & Benedict, 198 U. S. 118, recognizes that where the facts show "contract, fraud or estoppel," a person may

not have the right to use his own name. When such conditions exist it is not a "legitimate" way to use one's own name. These elements were not present in Burgess vs. Burgess, 3 D. G. M. & G. 896; Turton vs. Turton, L. R. 42, Ch. Div. 128; Reddaway vs. Banham, L. R. App. Cas. [1896] 199.

II.

While the contract of 1892 was executed in the name of the corporation, it was made with the express assent of all of the stockholders of the Hall's Safe & Lock Company, and for their benefit, and for a consideration, which was intended to be and was immediately distributed among them. The sale could not have been made except with the consent of all of the stockholders. It was a sale of the business as a going concern, and of its good will and all other assets, all of which belonged in fact to the stockholders. They desired to sell the business as a going concern including its trade rights and good will and to secure the value thereof for distribution among themselves. In substance and effect it was a sale by the stockholders. The petition of Edward C. Hall and others in the court of common pleas for the dissolution of the corporation (Rec. 390), recites that the contract was authorized by all of the stockholders at a meeting called for that purpose.

The members of the Hall family, having induced petitioner's predecessor to purchase the old concern with its trade rights and good will for a valuable consideration, to be distributed among themselves, and which was so distributed, are estopped to say that they are not bound by the contract, or to derogate in any way from the grant. Especially is this true of the respondents, Edward C. Hall and W. H. Hall, who negotiated the sale and were directors and the president and vice-president of the company. They must be held to

have consented to the acquisition and enjoyment by the purchaser of every right implied in the transfer to it of the good will and trade rights of Hall's Safe & Lock Co., which includes the right, and necessarily the exclusive right, to use the title Hall's Safe & Lock Company, and to call the product "Hall's Safes."

The question is not whether a court of equity will look behind the corporate entity to fix upon the shareholders what the court of appeals mistakenly call "a liability for the acts of the corporation," but whether the owners of a business, who sell it as a going concern and get the consideration, can repudiate the terms of the sale because the formal transfer was made in corporate name.

III.

In Churton vs. Douglas, Johns. 174, Wood, V. C. said:

"The name of a firm is a very important part of the good will of the business carried on by the firm. A person says, 'I have always bought good articles at such a house of business; I know it by that name, and I send to the house of business identified by that name for that purpose.' There are cases every day in this court with reference to the use of the name of a particular firm, connected generally, no doubt, with the question of trade mark. But the question of trade mark is in fact the same question. The firm stamps its name on the articles. It stamps the name of the firm which is carrying on the business on each article, as a proof that they emanate from the firm; and it becomes the known firm to which applications are made, just as much as when a man enters a shop in a particular locality. And when you are parting with the good will of a business, you mean to part with all that good disposition which customers entertain towards the house of business identified by the particular name or firm, and which may induce them to continue giving their custom to it. You can not put it anything short of that. That the name is an important part of the good will of a business is obvious, when we consider that there are at this

moment large banking firms, and brewing firms, and others, in this metropolis, which do not contain a single member of the individual name exposed in the firm."

In Brown Chemical Co. vs. Meyer, 139 U. S. 540, the firm of Brown & Lincoln sold a preparation which they called Brown's Iron Tonic. Brown sold out his interest in the firm to Lincoln, who continued to use the name. The court held that the plaintiff could not "question the right of Brown to transfer his interest in the business, and to include in such transfer the right to the use of his name in connection with the preparation of the tonic, as part of the good will of the business," p. 547.

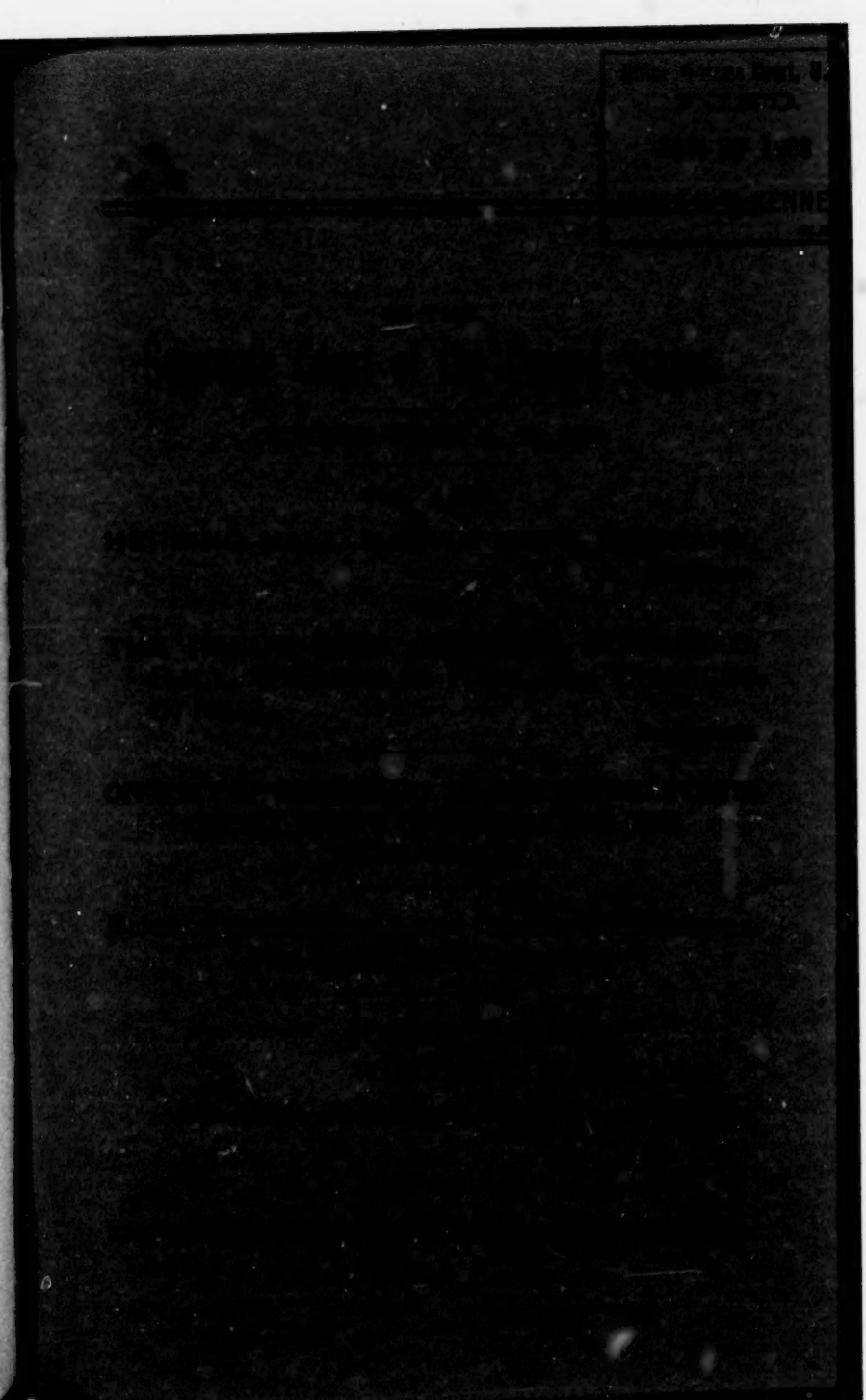
Trego vs. Hunt [1896], App. Cas. 7, is the latest decision of the House of Lords on the subject of good will. It holds that the vendors of a business with its good will are not entitled to solicit especially the customers of the old concern, or to do anything which will weaken their habit of dealing with the old concern, and approves Labouchere vs. Dawson, L. R. 13 Eq. Cas. 322, where the vendor of good will was restrained "from in any way endeavoring to obtain the custom of such of the customers of the plaintiff as were customers of the old concern, or from attempting to take away any portion of the business bought by the plaintiff." They held that there is "an implied contract to abstain from doing any act intended to deprive the purchaser of that which has been sold to him, and to restore it to the vendor."

IV.

We respectfully submit that the important question of the relation of the individual stockholders of a corporation to such a transaction as this, upon which the courts of appeal of the sixth and seventh circuit are divided in opinion, justifies the review of the decree of the court of appeals for the sixth circuit by this court. That court holds that a few per-

sons owning all of the stock of a corporation which bears their name and whose product has come to be known all over the world by their name, can sell the business and good will as a going concern, for a large price, divide the consideration among themselves, and immediately resume business in the same locality under the old name, and call their product by that name.

LAWRENCE MAXWELL, Jr.,
CHARLES H. ALDRICH,
Counsel for the Petitioner.



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IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1907.

No. 136.

HERRING-HALL-MARVIN SAFE COMPANY,
Petitioner,

vs.

THE HALL'S SAFE COMPANY, EDWARD C. HALL, WILLIAM H. HALL and CHARLES O. HALL,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Brief of Respondents, and the Cross Petitioner, The Hall's Safe Company.

Statement of the Case.

In May, 1892, Hall's Safe & Lock Company, a corporation under the laws of Ohio, sold and transferred to Messrs. Cox & Segur all of its property, business and good will, pursuant to a written agreement which provided as a *condition precedent* that a new corporation should be organized under the laws of New Jersey, *to be called Herring-Hall-Marvin Company*, which should take over and carry on this business and simultaneously

acquire the business, property and good will of Herring & Co., Farrel & Co., Myers & Smith, and The Marvin Safe Company. (Def'ts' exhibit No. 268, p. 345.) * Such a company was duly organized, before the sale and transfer took place, and its Articles of Incorporation provided:

> "*First*, That the name which we have assumed to designate such company, and to be used in its dealings, is HERRING-HALL-MARVIN COMPANY." (Def'ts' exhibit No. 262, p. 316.)

Hall's Safe & Lock Company retained its corporate name and franchise and its stockholders retained their stock, not a share of which, at any time, passed to the purchasers. The right to use its corporate name was not granted.

A comparison of the allegations in the 3rd article of the bill of complaint (p. 4) and the 3rd article of the answer of the Herring-Hall-Marvin Company to the cross-bill of The Hall's Safe Company, (p. 33) with the bills of sale from Hall's Safe & Lock Co. to Cox & Segur (Plff.'s Ex. No. 1, at p. 93) and from the latter to Herring-Hall-Marvin Co. (Plff.'s Ex. No. 2, at p. 96) shows that the pleader interpolated the words "*trade names*", between the words, "trade marks" and the words, "good will", as found in the bills of sale. Why such interpolation should have been made is not clear. Its effect is to mislead the court and make it suppose that the grant was broader than it really was and that the *name* of the Company was specifically conveyed. It seems, from some expressions in his opinion (pp. 274, 275), that his honor, Judge Clark, was in fact so misled.

* NOTE.—The page references are to the printed record in this Court. Italics are our own.

It is important therefore to note that no such expression as "*trade names*" was ever used in any of the documents constituting Plaintiff's chain of title.

These are as follows:

(1) The option given to the promoters and approved by the directors and stockholders of Hall's Safe & Lock Co. at their meetings, May 7th, 1892 (Defts. Ex. No. 268, pp. 344 to 346; No. 269, p. 348).

This is the only agreement to which the stockholders gave their assent.

(2) The agreement between Hall's Safe & Lock Co. and Cox & Segur made at the request of the promoters, which incorporates by reference the option above named (Defts. Ex. No. 270, pp. 349, 350).

(3) The instruments described in the schedule attached to the agreement with Cox & Segur and the receipt of the Union Trust Co. (p. 351.)

(4) The Bill of Sale, Hall's Safe & Lock Co. to Cox & Segur, which incorporates by reference the agreement with Cox & Segur, and therefore the option above mentioned (Plff.'s Ex. No. 1, pp. 92 to 95).

Note particularly Schedule A, attached thereto.

(5) The Bill of Sale, Cox & Segur to Herring-Hall-Marvin Co., which incorporates by reference the bill of sale from Hall's Safe & Lock Co. (Plff.'s Ex. No. 2, p. 96).

(6) The Bill of Sale—Receivers of Herring-Hall-Marvin Co. to Complainant, acknowledged Dec. 28th, 1900, more than eight and a half years after the above transactions. (Plff.'s Ex. No. 3, pp. 97 to 101).

Its omission was significant and the uncontradicted testimony of Edward C. Hall (pp. 253 to 255) is that it was intentional and that the purchasers were advised at all stages of the negotiations that the name of the Company and the family name "Hall," would not be sold.

The right to the use of the name, "HALL," was conceded, to the extent of its becoming part of the corporate name Herring-Hall-Marvin Co., and where the manner of its use is prescribed, all other use of the name is by necessary implication *excluded*. Such a collocation of names could always be distinguished from any name the Halls might adopt, if forced to go into business for themselves.

The option of purchase given by Hall's Safe & Lock Co. to Messrs. Connor & Co., provided that:

> "upon the completion of the transfer in accordance with the terms above named, Hall's Safe & Lock Co. agrees to go into liquidation and dissolve as soon as it can be wound up under the Laws of Ohio." (Record, pp. 345, 346).

The Bill of Sale from Hall's Safe & Lock Co. to Cox & Segur provides:

> "That it, said Hall's Safe & Lock Company, will not hereafter engage in or carry on any business whatsoever and that it will, as soon as practicable, pay and discharge all its debts and liabilities, and that it will thereupon go into liquidation and procure itself to be wound up and dissolved in accordance with the laws of the state of Ohio" (Record, p. 95).

These provisions as to the name of the new company and the dissolution of the old company were not only

assented to by the stockholders of Hall's Safe & Lock Co., but were inserted for their protection and to secure the right of such of them as were named "Hall" to use their family name in business without danger of confusion, if at any time in the future it should seem to be for their interests to engage in the safe business.

Edward was at this time 41 years old, William H. Hall, 35, and the others, still younger. All had been brought up in the safe trade and had acquired a practical knowledge of the manufacture and sale of safes and vaults in all their branches. (Pullen, pp. 64, 65; W. H. Hall, pp. 138, 140, 141, 217, 218; E. C. Hall, pp. 221, 222, 232, 256, 264, 265).

Edward C. Hall and W. H. Hall had acquired not only experience, but honorable reputations as manufacturers and an extensive acquaintance among dealers and others interested in the safe business. (W. H. Hall, pp. 182, 183, 217, 218; E. C. Hall, pp. 221, 222, 256, 264). This experience, reputation and acquaintance were strictly *personal*—something quite apart from the reputation enjoyed by the Company.

The Company had been incorporated by their father, Joseph L. Hall, in 1867, before any of the respondents were old enough to go to work. (Bill, p. 4; E. C. Hall, p.235.) He gave the *Company* his name; but he had, before that, given *respondents* his name. Their holdings and stock in Hall's Safe & Lock Co., were comparatively insignificant, only 22 and 10 shares respectively, out of a total of 3,591 shares. (Exhibit A, p. 322).

They had a contingent interest in the stock held in trust under their father's will and held by their mother

in her own right, but the amount they would receive depended entirely on their mother. She might consume it all if she saw fit, or apportion what was left among the children so as to reduce their shares. (See will of Joseph L. Hall, p. 315). There were in the family five boys and six girls (Pullen, p. 43), all of whom were to share in Joseph L. Hall's estate in such proportions as Mrs. Hall might direct by her will (p. 315).

It was apparent that the $650,000, out of $3,300,000 stock of the new company, to be received by Hall's Safe & Lock Co., even if it could be held together and voted as a unit would not enable them to control the new company or to retain employment with it. They had to look out for themselves.

Edward C. Hall and William H. Hall, did enter into contracts with the new company, by virtue of which they agreed to serve for stipulated salaries as officers and directors until the fourth day of May, 1897, or longer if desired by the said company, and each further agreed that he would not, so long as the Herring-Hall-Marvin Co. desired to retain his services as above, engage

> "in the business of manufacturing, selling, buying or dealing in fire or burglar proof vaults or safes, or in any business or occupation, such as the said corporation known as Hall's Safe & Lock Co. has heretofore been engaged in, or the said Herring-Hall-Marvin Co. is authorized or impowered to engage in, or in any other business which will compete or interfere with the business of the said Herring-Hall-Marvin Co." (Def'ts' Ex. No. 272, p. 352; Def'ts' Ex. No. 394, p. 403).

If the Herring-Hall-Marvin Co. cared to prevent them from engaging in the safe business and using their own names in such business, all it had to do was to comply with its obligations under these individual agreements. The fact that it made them is sufficient evidence that it did not rely on the Company's bill of sale to restrain them from active competition.

It is not disputed that the corporation, Hall's Safe & Lock Co., carried out its contract to the letter. It ceased to do business, went into liquidation and caused itself to be dissolved by legal proceedings, the decree of dissolution being entered July 5th, 1895. (Defts' Ex. No. 263, pp. 320 to 326.)

From that date there was no HALL'S SAFE & LOCK CO. and no company entitled to the use of that name. Up to that date, it was a corporation existing entirely independent of Herring-Hall-Marvin Co., and, of course, no other company could use its name.

It is not disputed that Edward C. Hall and William H. Hall faithfully performed their duties as officers and directors of the new company, for more than four years and until the summer of 1896, when the company deposed them from office, and cut down their stipulated salaries. They then asked and received their discharge and full release from any and all obligations to the company under their said contracts, to take effect August 1st, 1896. (Bill of complaint, p. 5; Pullen, p. 89; W. H. Hall, pp. 141, 142, 171; E. C. Hall, pp. 221, 223, 224; Defts' Exhibits; Nos 274, 275 and 276, pp. 353, 354; Nos. 395, 396, 397 and 398, pp. 404 to 406).

In September of that year, they, with three brothers, incorporated under the laws of Ohio, and adopted the name,

THE HALL'S SAFE COMPANY,

which no sensible person could mistake for

HERRING-HALL-MARVIN COMPANY.

(Defts' Ex. No. 264, p. 331).

Their product was always marked with their corporate name and the place of manufacture, and since August, 1902, has been further marked with a trade mark, specially designed to distinguish it from the work of all other safe manufactures, ancient or modern. (W. H. Hall, pp. 159, 171, 172, 214, 215; E. C. Hall, p. 231; Plffs' Exhibits No. 46, pp. 456 and 464, and No. 48, p. 297).

The product of complainant has always been marked with its corporate name, "HERRING-HALL-MARVIN SAFE CO., HAMILTON, O.," or the name of the city where the selling branch was located, and with no other name, whatever, until after this suit was brought, when complainant began marking safes "HALL'S STANDARD SAFE." (Palm, pp. 129 to 132; W. H. Hall, p. 159; E. C. Hall, p. 231.)

There is not in the record a scintilla of proof that The Hall's Safe Co., or any of its officers, agents, or employees ever represented defendant Company as the Herring-Hall-Marvin Safe Co., or as in any way con-

nected therewith; that any of them ever sold, or attempted to sell a safe, or vault, as the product of complainant; or that anyone ever dealt with The Hall's Safe Co., supposing that he was dealing with complainant.

For a limited period, beginning December, 1900, and extending to February, 1902, they and dealers in their goods advertised "Hall's Safes" for sale. They, at this time, inserted advertising pages in their illustrated catalogues in which they call attention to "THE UNRIVALLED RECORD OF THE HALL'S SAFE in the GREAT FIRES of CHICAGO, BOSTON, LYNN and SEATTLE", to the firm of their grandfather, of their father before he incorporated Halls Safe & Lock Co., and to their own Company with its date of incorporation "1896" and add "Three Generations of High-Grade Safe Making Prove that Quality Tells." Upon complaint being made, they desisted, cut out all such advertisements and notified all dealers in their goods to refrain from such advertising. (Pullen, pp. 51, 62; W. H. Hall, pp. 154, 155, 157; E. C. Hall, pp. 232, 233, 264; Defts. Ex. No. 339, p. 378.)

They contend, nevertheless, that they have the perfect right to manufacture safes in strict accordance with the patents of Joseph L. Hall, all of which have long since expired, and to advertise and sell them as "Hall's Safes," to point out their relationship to Edward Hall their grandfather and to Joseph L. Hall their father, and the fact that they were both safe makers, and to call attention to the fire-resisting qualities of the Hall Safes as tested in the great fires of Chicago, Boston, Lynn, &c., which qualities were due to special methods of man-

ufacture and the use of materials patented by Joseph L. Hall, the safes having acquired their reputation and popular designation as "Hall's Safes," while he was protected in the exclusive right to manufacture such safes by letters patent of the United States.

Suit was brought, July 1, 1904, by the Herring-Hall-Marvin *Safe* Co., as successor to Herring-Hall-Marvin Co., against respondents to enjoin them

> "from carrying on the business of manufacturing or selling fire proof or burglar proof safes, or vaults under the name of "The Hall's Safe & Lock Co." or any other *trade name* substantially or essentially the same and calculated to *deceive the public or intending purchasers into the belief that they are dealing with your orator, or, with the establishment founded by said Joseph L. Hall and carried on by your orator when they are dealing with the defendant*, and from marking them with that name." (Record, p. 9.)

The suit was brought, the evidence taken and the case prepared by complainant on the theory that Hall's Safe & Lock Co. had acquired the *exclusive right* to the use of the family name "Hall" in the safe business and that this exclusive right passed to Herring-Hall-Marvin Company by virtue of the sale and transfer of its business, property and good will, and from that Company through its receivers to complainant.

The extent of their claims may be judged from the following passages in a brief filed by the same Counsel on behalf of Herring-Hall-Marvin Safe Co., in the suit of *J. W. Donnell et al* vs. *that Company*, decided in the

Seventh Circuit and since brought here on writ of certiorari and number 106 on the docket for this term, viz:

> "That there can be two different firms or individuals engaged in the manufacture or sale of Hall's Safes is impossible to suppose. * * * * There is only one "Hall's Safe" as there is only one Baker's Chocolate, Chickering Piano, or Royal Baking Powder." (See their brief p. 35.)

Judge Seaman, announcing the opinion of the Circuit Court of Appeals, in that case, said:

> "Unless the rights of the appellee (Herring-Hall-Marvin Safe Co.) are *exclusive*, therefore, in the use of the trade name, "Hall," as applied to their Safes or Vaults—irrespective of the just limitations in its use on the part of the appellants, arising out of their prior trade relations with the appellee—it is obvious that the decree cannot be upheld without modification." (74 C. C. A. p. 364.)

And yet the Court upheld it.

Judge Clark, sitting in this case, found for the Complainant and entered a decree in accordance with the prayer of the petition providing among other things:

> The defendants, The Hall's Safe Company, Edward C. Hall, William H. Hall and Charles O. Hall, and their successors, assigns, servants, agents, officers and employees are perpetually enjoined from carrying on the safe or vault business in the name of The Hall's Safe Company, as has been done, and is now done, or in any name similar to that of Hall's Safe & Lock Company, and from advertising, or in any manner designating their product as Hall's Safes, or Vaults, as has heretofore been done and is

now done, and from marking their product in any manner with the name Hall's Safe Company, or any name so similar as to mislead the trade or cause mistake, and from representing in any manner that they are the Hall's Safe & Lock Company, or its successors, or that they are carrying on the business established by Joseph L. Hall, or that the safes which they manufacture are Hall's Safes; and from interfering in any manner with the *exclusive right of Herring-Hall-Marvin Safe Company*, its successors and assigns, to *use the trade name* and to possess and enjoy the good will of Hall's Safe & Lock Company. (Record, p. 278).

Respondents appealed to the Circuit Court of Appeals for the Sixth Circuit and that Court modified the injunction so as to read as follows:

> "The defendant, the Hall's Safe Co., its servants, agents, officers and employees are perpetually *enjoined from carrying on the safe or vault business* in the name of The Hall's Safe Company, or any other name having similarity to the name Hall's Safe and Lock Company, *without also giving information to the public that it is not the business formerly carried on by The Hall's Safe and Lock Company;* and from naming, advertising or otherwise designating its safes and vaults as the products of the Hall's Safe and Lock Company or its successors in business, or pretending that it is carrying on the business started by Joseph L. Hall, and continued by the Hall' Safe and Lock Company; and from interfering in any manner with the exclusive right of the complainant to possess and enjoy the good will acquired by the Hall's Safe and Lock Company, and from using the trade name of

said last named company without at the same time so qualifying such trade name as to show that the trade name used is not the one formerly used to designate the products of the Hall's Safe and Lock Company." (Record, pp. 515, 516).

This modified injunction is not satisfactory to the Complainant because it permits the respondents to use their family name "Hall" under certain restrictions and thus conflicts with the decision in the Chicago case. Respondents object to the modified injunction because of the restrictions imposed which they believe to be burdensome, unnecessary and unreasonable.

There is a conflict of opinion between the Circuit Court of Appeals of the Seventh Circuit and the Circuit Court of Appeals of the Sixth Circuit as to Complainants *exclusive right to use the name "Hall"*, in the safe trade and as to the effect of the terms of sale of its business and property by Hall's Safe & Lock Company to Cox & Segur upon the individual rights of the respondents. This difference of opinion is the ground for the various applications for Writs of Certiorari which have been granted by this Court.

The Respondent, The Hall's Safe Company, asks this Court to consider and pass upon certain conclusions of law by the Circuit Court of Appeals of the Sixth Circuit, which it believes to be erroneous and in conflict with recent and well known decisions of this Court, of other Circuit Courts of Appeal, and of the House of Lords and Privy Council in England. These were set forth in the Cross-application for a Writ of Certiorari as follows:

I.

We think the Court of Appeals erred in finding that complainant acquired the right to use the name "Hall's Safe & Lock Co." in its business. Such a right could only be granted in *express terms* or by necessary implication. The language of the various documents constituting the chainof title and the circumstances negative the idea that the new company was to use the name Hall's Safe & Lock Co.

II

We think the Court of Appeals erred in not dismissing complainant's bill, because of false representations that Hall's Safe & Lock Co. was still in existence and doing business and thus misleading the public. We do not contest its right to announce itself as the *successor* of Hall's Safe & Lock Co. They would then receive the credit that a *successor* is entitled to and no more.

III.

We think the Court of Appeals erred in dismissing the cross-bill of The Hall's Safe Co., asking that plaintiff be enjoined from making such representations and from doing business in the name of Hall's Safe & Lock Co.

This is a corollary to the preceding propositions and rests upon the same grounds and authorities.

IV.

We think the Court of Appeals erred in requiring The Hall's Safe Co. to accompany the use of its corporate name with

"explanatory matter showing that the product was their own and not that of the old company or its successor in business."

and in enjoining them from carrying on the safe or vault business in the name of

"The Hall's Safe Company, or any other name *having similarity* to the name 'Hall's Safe & Lock Company' *without also giving information to the public that it is not the business formerly carried on by the Hall's Safe & Lock Company.*"

V.

We think the Court of Appeals erred in agreeing with the Court of Appeals of the Seventh Circuit that no one could advertise and sell safes as "Hall's Safes" unless they were made by the Herring-Hall-Marvin Safe Co. It appears in evidence that the safes popularly known and designated as "Hall's Safes" were made in accordance with sundry patents, granted to Joseph L. Hall and others, assignors to Hall's Safe & Lock Co., all of which patents had expired. From that time any one could manufacture and sell "Hall's Safes," the only restriction on that right being the necessity for marking them with the name and address of the manufacturer, so that the public would not be deceived into buying them as the product of Herring-Hall-Marvin Safe Co.

Chicago Case Distinguished.

It may be proper to state, in this connection, that the case at bar differs, in several important respects, from the case of *Donnell, et al*, vs. *Herring-Hall-Marvin Safe Co.* numbered 106 on the Docket of this Court for

the October Term, 1907, and which for convenience will be styled the Chicago case.

(1) In this case all of the incorporators and stockholders are members of the Hall family and the company's name is natural and appropriate.

In the Chicago case, none of the incorporators or original stockholders were named Hall and for more than a year after its incorporation, no one of that name had any connection with the Chicago Company.

(2) In this case there is no evidence of any attempt on the part of the Hall's Safe Co. or its agents or employees to sell its product as that of Complainant, or of the old Hall's Safe & Lock Co.

In the Chicago case, there was evidence tending to prove that the salesmen of the Chicago Company were instructed to represent and did represent that their company was the old Hall's Safe & Lock Co., and that the Safes sold by them, were the product of that company.

(3) In this case, The Hall's Safe Co. started *de novo*, leasing and equipping a new factory, some miles from the old plant and giving its exact location on all of its catalogues and stationery.

In the Chicago case, Donnell and his associates, after incorporating as Hall's Safe & Lock Co., carried on its business in that name in the same store and with the same signs, stationery, &c., which they had been using from 1886 down to the time of their incorporation, during all of which time they had been acting as agents of the original Hall's Safe & Lock Co., and Herring-Hall-Marvin Co. (Pullen, p. 58).

(4) In this case, all the mail addressed to Hall's Safe & Lock Co was delivered to Herring-Hall-Marvin Co, and its successor, with the acquiesence of respondents, until recently, when gross abuses of that privilege, which will be mentioned hereafter, caused them to object.

In the Chicago case, Donnell and his associates incorporated for the admitted purpose of securing all mail addressed to Hall's Safe & Lock Co. at Chicago—all of which would naturally belong to Herring-Hall Marvin Safe Co.

The Hall's Safe Co. was not a party to that suit, filed no pleadings, took no part in the preparation of the case, and really had little sympathy with Donnell, as it had itself objected to his use of the name "Hall's Safe & Lock Co." in his business, and, if W. H. Hall had had his way, would, long ago, have made that objection effective by suit or otherwise. An attorney was consulted with that object in view, but the matter was dropped. (W. H. Hall, pp. 191, 192).

The Chicago parties were not agents of The Hall's Safe Co. and had no contract relation of any sort with it. They were dealers in safes, vaults, &c. and bought safes wherever it was for their interest to buy them, and sold them for such prices and on such terms as they chose. (W. H. Hall, p. 191; Pullen, p. 58.) The Hall's Safe Co. is in no way responsible for their representations or practices

It is, however, deeply interested in having the sweeping injunction of the Chicago Court so modified as that dealers may sell its Safes, marked with its name, in the Seventh Circuit, so long as they indulge in no misrepresentations as to the origin of said Safes.

Argument.

The Chicago case was referred to Frank F. Reed, Special Master, to hear a motion for a preliminary injunction and report his findings and recommendation. The Master went to the limit in declaring the exclusive right to the name "Hall" to belong to Herring-Hall-Marvin Safe Co. and in making recommendations to give effect to such *exclusive right*. On Dec. 13th, 1904, Judge Kohlsaat adopted certain of the Master's recommendations and dismissed the bill of Halls Safe & Lock Co. (Donnell's Co.) for want of equity and enjoined Donnell and his associates from doing business in that name, but overruled the Master's report in all other matters. The case was continued on the Cross-Petition of Herring-Hall-Marvin Safe Co., proofs were taken, and after argument, Judge Bethea granted an injunction in substantially the terms prayed for in the petition confirming the *enclusive right* of H.-H.-M. Safe Co. to the name "*Hall*" and enjoining Donnell and his associates, not only from using that name in their business—but from selling any safes marked with the name "Hall" or any other name of which the word "Hall" forms a part unless such safes were made by H.-H.-M. Safe Co. or one of its predecessors in business.

All this took place before the decision of this Court in *Howe Scale Co.* v. *Wyckoff*, 198, U. S. 118, was announced.

The Cincinnati case was argued within a short time after the publication of that decision, but the learned Judge seems to have been more influenced by the decision in the Chicago case and his erroneous assumption

that Herring-Hall-Marvin Co. had acquired the right to use the name Hall's Safe & Lock Co. than by the opinion of this Court.

There is seldom a more striking paralled between two cases, than that which appears between the Howe Scale Co'.s case and the case at bar. As it seems to us to be decisive so far as Appellant's pretensions are concerned, we may be pardoned for calling particular attention to some of the facts brought out and arguments used in that case. It will be observed that whenever the paralled fails the case against the Remingtons was much stronger than the case against the Halls.

Howe Scale Co. v. Wyckoff, 198 U. S. 118, Analyzed and Applied.

The petition alleged:

> "that complainant had been for many years engaged in the manufacture and sale of typewriting machines known in the markets and to the trade and public and referred to, identified, offered for sale and sold as the 'Remington Typewriter' and the 'Remington Standard Typewriter' and that the words 'Remington' and 'Remington Standard' had been registered in the Patent Office under the Act of Congress."

The words "Hall" and "Hall's Standard" had not.

> "and charging defendant with fraud and unfair competition in making use of the corporate name 'Remington-Sholes Co.,' and the designations 'Remington-Sholes,' 'Rem-Sho' and 'Remington-Sholes Co.' in advertising for sale and selling type-

writing machines, and praying for an accounting and for an injunction restraining defendant from advertising or offering for sale or selling typewriting machines manufactured by the 'Remington-Sholes Co.,' bearing the name 'Remington' or 'Remington-Sholes' or 'Rem-Sho' or 'Remington-Sholes Co.,' and from advertising, or offering for sale, or selling any such machines under said designations or under any designation of which the name 'Remington' was a part. (198 U. S. 119.)

"For some years prior to 1860, E. Remington and his three sons were engaged at Ilion, N. Y. in the manufacture of fire arms under the firm name of E. Remington & Sons. The father died in 1863 and in 1865 the sons, who had continued the business, organized the corporation of E. Remington & Sons under the laws of New York. . . . .

In 1873, E. Remington & Sons began the manufacture of a typewriting machine, the most important features of which were invented and patented by Christian Latham Sholes. It was the pioneer writing machine and called 'The Typewriter' and 'The Sholes & Glidden Typewriter,' and in 1880 the names 'Remington' and 'Remington Standard' were used instead as they have since been used continuously.

One of complainant's witnesses testified that the typewriter was called 'Remington' for the reason that the name Remington was known the world over, owning to their building guns for foreign governments, building sewing machines and having one of the largest manufacturing works in the world. In March, 1886, the typewriter branch of the business of E. Remington & Sons was sold to Messrs. Wyckoff, Seamans & Benedict, and there

was also transferred *the exclusive right to the name* 'Standard Remington Typewriter' by which name the assignment states the machines were generally known." (198 U. S. 121, 123.)

In this respect the case was stronger against the Remingtons, for Hall's Safe & Lock Co. did not transfer any exclusive rights, or any rights at all in *trade names.*

"In 1892, Z. G. Sholes, a son of Christopher Latham Sholes, invented a typewriting machine. . . . Later in the year Franklin and Carver Remington, sons of Samuel Remington, formerly President of the E. Remington & Sons corporation, bought a three-fourths interest in Shole's invention, Sholes retaining one-fourth, and a like interest in the stock of the Company, paying from eight to nine thousand dollars." (198 U. S. 122).

"Franklin Remington gave his entire time to the promotion of the enterprise and advanced for expenses from six to seven thousand dollars in addition to the original investment of eight or nine thousand. The name of the machine was subsequently changed by Sholes from 'The Z. G. Sholes' to 'The Remington-Sholes.' Thereafter the Remingtons and Sholes induced Head and Fay of Chicago to furnish funds to manufacture the Remington-Sholes machine; and a corporation organized in the spring of 1894 for its manufacture was designated the 'Remington-Sholes Typewriter Co." (198 U. S. 122-3.)

"The charter of that Company was surrendered in April, 1897, and the 'Remington-Sholes Company' was incorporated under the laws of Illinois and purchased all the assets, good will, trade marks,

trade names, etc., theretofore belonging to Fay and the Remington-Sholes Typewriter Co."

The machines made and sold by the Remington-Sholes Typewriter Co. were plainly marked with the words 'Remington-Sholes, Chicago.' (198 U. S. 123).

The claims made and arguments used for complainants in the Remington case are identical with those used here.

"Respondent is the exclusive owner of all trade names and trade marks of its predecessors relating to the typewriter business." (198 U. S. 129).

"The name 'Remington' which has for many years been generally and widely known to the trade as symbolizing complainant-appellee's product and business, is a very important and valuable part of the good will of its business." (198 U. S. 130).

"It is the case of an *unnecessary use* of a name long previously employed by another in the same business, and in which the use thereof by the second comer constitutes an untrue and deceptive representation." (198 U. S. 131).

"Corporations which do not inherit their names, but assume them voluntarily, may not use their assumed names if such use shall result in the confusion and deception of the public and the displacement of the good will of another's business." (198 U. S. 131).

"That another may have the right to use a particular name, as well as complainant-appellee is unimportant, if appellee's right be exclusive as against appellants." (198 U. S. 132).

The Remington case was important, the industry of counsel for complainant was great and we do not think any case was overlooked that tended in any way to support their contention. All the cases that have been cited and used in this case and many more were therefore brought before the Supreme Court for review. An examination of the brief for complainant-appellee reveals other facts which emphasize the similarity of the two cases in some respects, and the weakness of the Remingtons' case as compared with that of the Halls, in others.

> "Appellee's business had acquired a world wide reputation under the trade name of 'Remington Typewriter Co.' before appellant's principal entered the typewriter field" (p. 33).
>
> "Carver Remington had one share of stock in E. Remington & Sons corporation given to him by his father to qualify him as one of the directors and he was appointed Secretary." (p. 64).

Both boys had an indirect interest in the old Company as sons and heirs at law of Samuel Remington its President. They appear to have been grandsons of E. Remington.

> "The names of Franklin Remington and Carver Remington were not of the slightest value in the typewriter business in which they were engaged. They were unknown to the trade and had never acquired any reputation in the market in connection with the manufacture or sale of typewriters."(p.73).

in which respect the case of the Hall boys is much better.

> "To impress upon the public the belief that the business of this Illinois corporation was a continuation of the character and business of the old Rem-

ington concern and its machines—REAL Remington Typewriters—they stated in their advertisements, and their agents and dealers proclaimed by word of mouth that *their* writing machine was '*the only typewriter manufactured to-day by a Remington*,' and that 'it represents the *second generation* of typewriter manufacturers bearing this great name." (p. 75).

Salesmen were instructed that

> "It (Remington-Sholes Machine) was invented by the son of the man who invented the Remington Standard Typewriter and is being manufactured by the son of the man who started the manufacture of the Remington Standard Machine." (pp. 110, 154).

Letters were delivered by mistake to, and opened by the Remington-Sholes Co., which were intended for complainant. (pp. 135 to 150).

In our case *complainant* got all the letters about which there was any doubt.

Salesmen were also instructed:

> "To add such other interesting facts such as the history of the company, the connection of our Mr. Remington with this machine and the relation of the old Remington Standard, the fact that this is a *second generation of typewriter builders* and that the same standard of excellence is being manifested in the manufacture of this machine as all other goods which have been produced by the Remingtons." (p. 165).

Catalogues and advertisements were introduced in evidence, containing the following expressions:

"REM-SHO TYPEWRITERS.

The only typewriter manufactured by a REMINGTON strong, reliable accurate, it represents the SECOND GENERATION of typewriter manufacturers bearing this great name." (pp. 170, 178, 193)

At the Paris Exposition, 1900, the Remington Sholes Co. had

> "What they termed a 'RETROSPECTIVE EXHIBIT' which consisted of the machines shown in the reproductions produced from photographs thereof, together with photographs of THREE GENERATIONS OF THE REMINGTON FAMILY, grandfather, father and Mr. Franklin Remington." (p. 196).

There was a great deal of evidence to show that the public had been misled and many machines sold to persons who supposed that they were buying the old Remington Typewriters, or were dealing with the old Company. (pp. 198 to 222).

It will be seen that the Remingtons went far beyond the Halls in their attempts to trade on the family reputation and the reputation of the old Company and with much less justification, because, as was pointed out, they were not practical mechanics and had never really learned the trade of manufacturing typewriters.

The Circuit Court of Appeals, whose decision and opinion came before the Supreme Court for review, found among other things, that;

> "the typewriting machines which the corporation and its successor have *continuously manufactured* at Ilion are most favorably known to the public and

are associated in the public mind with the name 'Remington' so that the ordinary purchaser is quite likely to assume that a machine offered to him for sale as a 'Remington' has come from the establishment founded by the Remingtons at Ilion, nearly half a century ago. To this manufacture and trade the complainant succeeded in 1886." (58 C. C. A. 511).

"The defendant is the Remington-Sholes Company. It marks its machines 'Remington-Sholes', 'Rem-Sho', and there can be no doubt upon the record that the use of the name 'Remington' helps the sale of machines and induces many purchasers to suppose that such machines are the product of the old establishment at Ilion." (58 C. C. A. 511).

"The question here is whether the name, '*Remington-Sholes*' which is defendant's designation and which therefore, *impregnates all the literature* it circulates with the name which complainant's predecessors made a household word, was fairly bestowed upon it; and whether the name was fairly placed on the machines." (58 C. C. A. 512).

"Unless the individual is to be debarred from one particular business altogether or compelled to give up the name he inherited, the use of that name by two persons selling the same articles is a necessary evil to which the public must submit. (58 C. C. A. 513).

"In the case of a corporation, however, the situation is different. The choice of its name is voluntary. Such name is an artificial thing which can be selected by its incorporators from the entire vocabulary of names.

"The corporation defendant and its predecessor, the Typewriter Co. acquired their names by the selection of the individuals who organized them. Obviously there was no necessity that either of them should take the name 'Remington' either alone or in combination. The junior Remingtons contributed money to the enterprise and gave—at least one of them did—time and services to its promotion, but they were very far from being the entire corporation. The corporation was a separate entity from them. They chose not to prosecute the typewriter business themselves. Had they done so, good faith toward those who were dealing with them might make it necessary to use their own name. They chose on the contrary to associate themselves with others in a corporation whose name its organizers were free to select" (58 C. C. A. 513, 514).

"We have no doubt whatever that the name 'Remington' was chosen because it was expected that it would naturally lead the public to suppose that the new corporation was either the successor or some branch of the old concern of which appellant observes, 'The name 'Remington' was admittedly a by-word for good workmanship the world over.'" . . . . . .

Under the authorities in this circuit the complainant is entitled to the injunction granted him as to the use of the name 'Remington'" (58 C. C. A. 515).

The following extract from Judge Wallace's dissenting opinion brings out another important point which has a bearing on the case at bar:

"Undoubtedly, in selecting the corporate name, they understood that it might suggest some assoei-

ation with the great concern at Ilion and to that extent that the word 'Remington' was valuable, but *that concern was not engaged in the manufacture of typewriters.*" (58 C. C. A. p. 517).

The Judge, of course, was well aware that they *had* been engaged in the manufacture of typewriters prior to the sale of that branch of their business to Wyckoff, et al.

Hall's Safe & Lock Co. is not engaged in the manufacture of safes and has not been since May, 1892.

These various facts, arguments, authorities and conclusions help us to appreciate the full force of the Supreme Court's decision, and its applicability, almost word for word, to the case at bar.

Mr. Chief Justice Fuller, in announcing the decision of the Court, says, among other things:

> "But it is well settled that a personal name can not be exclusively appropriated by any one as against others having a right to use it; and as the name 'Remington' is an ordinary family surname, it was manifestly incapable of exclusive appropriation as a valid trade mark and its registration as such could not in itself give validity". (198 U. S. 134-5).

He then quotes with approval passages from Mr. Justice Brown's opinion in *Brown Chemical Co.* v. *Meyer*, 139 U. S. 540, and from Mr. Justice White's opinion in *Singer Mfg. Co.* v. *June Mfg. Co.*, 163 U. S. 169: and adds—

> "In the present case, the decree enjoined the use 'in any manner whatsoever of the designation 'Remington' as the name or part of the name, of any typewriter machine whatsoever manufactured by the Remington-Sholes Co., etc. . . . . .

This denies the right to use the personal name rather than aims to correct an abuse of that right, and involves the assertion of the proposition that the use of a family name by a corporation stands on a different footing from its use by individuals or firms. But if every man has the right to use his name reasonably and honestly, in every way, we can not perceive any practical distinction between the use of the name in a firm and its use in a corporation. It is dishonesty in the use that is condemned, whether in a partnership or corporate name, and not the use itself." (198 U. S. 136).

He then quotes from the opinion of Mr. Justice Field in *Goodyear's & Co.* v. *Goodyear Rubber Co.*, 128 U. S. 598.

"Names of such articles can not be adopted as trade marks and be thereby appropriated to the exclusive right of any one; nor will the incorporation of a company in the name of an article of commerce without other specification create any exclusive right to the use of that name."

and adds—

"The principle that one corporation is not entitled to restrain another from using its corporate title, a name to which others have a common right, is sustained by the discussion in *Columbia Mill Co.* v. *Alcorn*, 150 U. S. 460, and is, we think, necessarily applicable to all names *publici juris*.

. . . . . .

"It is said that the use of the word 'Remington' in the name 'Remington-Sholes' was unnecessary, as if necessity were the absolute test of the right to use. *But a person is not obliged to abandon the use of his name or to unreasonably restrict it.*

> The question is whether his use is reasonable and honest, or is calculated to deceive. It is a question of evidence in each case whether there is false representation or not." (198 U. S. 137).

He then quotes with approval Lord Esher's opinion in *Turton & Sons* v. *Turton & Sons*, 42 Ch. Div. 128.

> "Therefore the proposition goes to this length—that if a man is in business and has so carried on his business that his name has become a value in the market, another man must not use his own name. If that other man comes and carries on business, he must *discard his own name and take a false name.* The proposition seems to me so monstrous that the statement of it carries its own repudiation."

and concludes:

> "In our opinion the Remingtons and Sholes made a reasonable and fair use of their names in adopting the name 'Remington-Sholes' for their machine, and in giving that name to the corporation formed for its manufacture and sale." (198 U. S. 138).

If, in view of the facts set forth above, the Remingtons' use of their family name was reasonable and honest, how can the use of their name by the Halls, under the circumstances of this case, be condemned? Discussing this question of fairness, the learned Chief Justice remarks:

> "Doubtless the Remington and Sholes, in using the name 'Remington-Sholes' desired to avail themselves of the general family reputation attached to the two names, but *that* does not in itself justify the assumption that their purpose was to confuse their machines with *complainant's;* or that the use of

that name was in itself calculated to deceive. Remington & Sholes were interested in the old Company, and Remington continued as general manager of the new company. Neither of them was paid for the use of his name and neither of them had parted with the right to that use. Having the right to that use, courts will not interfere where the only confusion, if any, results from a similarity of the names and not from the manner of the use. The essence of the wrong in unfair competition consists in the sale of the goods of one manufacturer or vendor for those of another, and *it defendant so conducts his business as not to palm off its goods as those of complainant, the action fails.*

. . . . . .

We hold that in the absence of contract, fraud or estoppel *any man may use his own name, in all legitimate ways, and as the whole or a part of a corporate name*" (198 U. S. 139, 140).

It would seem to us that, in view of the facts developed in that case, this decision of the Supreme Court should be decisive of the case at bar.

While this decision of the Supreme Court needs no bolstering, it may be well to cite a few cases in other Courts in which the doctrine has been applied under circumstances closely resembling the case at bar.

In *National Starch Mfg. Co.* v. *Duryea*, 41 C. C. A. 244, Duryea was President of Glen Cove Starch Mfg. Co., which for many years made and sold starch in packages having thereon a picture of the factory and the name "Duryea's Starch" in large letters. The Company sold its business, trademarks and good will to complainant which continued the

use of the package and label with its own name as Manufacturer. Duryea agreed not to go into any similar or competing business for five years and became the first president of the new company. At the end of five years he furnished capital to his sons who formed a partnership with others under the name of "Duryea & Co." and sold starch prepared by others as "Starch prepared by Duryea & Co." but used strikingly different labels and packages. Their starch was in fact prepared from formulae furnished by the senior Duryea who subsequently purchased the assets of the firm and continued the business under the firm name of Duryea & Co. There was evidence to show that his product was sold for a less price than complainant's and that retailers furnished it when "Duryea's Starch" was called for.

Here was certainly a case for the interposition of a court of equity if complainant's theory is correct. The position of the senior Duryea was almost identical with that of the Halls. A preliminary injunction was granted by the lower court but set aside in the Circuit Court of Appeals. The Court said:

> "That they gladly welcomed the pecuniary advantage from the right to use the name 'Duryea' is true, but that they presented it to the public as the '*Glen Cove starch*' is not true and . . . . . we think that their starch is shown by the label *not to be the manufacture of the complainant*, as the successor of the Glen Cove Co." (p. 245).

> "The right of Hiram Duryea to enter directly or indirectly into the starch business in Nov. 1895 and his right to permit his name to be used in the new enterprise are admitted. That an incidental interfer-

ence with, and injury to the business of the complainant which had the exclusive right to the use of the well known name or title 'Duryea's Starch' would occur—an injury which would be enhanced by the earnestness of competition in the field which the complainant and its predecessors had labored to occupy—and that an injury from honest competition is not remediable by a court of equity, are also manifest. The point which is urged by the complainant is that the defendants use the name of "Duryea" and have pressed the articles which they sell upon the public by the use of that name 'unaccompanied with any precaution or indication' that the article was not the manufacture of the complainant and thus that their silence is an artifice which misleads." (p. 245).

This objection was not sustained, the court being satisfied that the difference in labels was all that was required. It was apparent that Duryea had the experience and reputation in the starch business which enabled him to sell his starch quite irrespective of its place of manufacture, and the same is true of the Halls. It is not so much the name that troubles the several complainants as the honest competition of the well-known experts who bear the name. This the Courts will not attempt to suppress.

In *Montreal Lithographing Co.* v. *Sabiston* (1899) App. Cas. 610 we have the latest expression of the opinion of the Privy Council in similar cases.

Appellant company being the *transferee of the assets and good will* of the *dissolved* Sabiston Lithographic & Publishing Co. sued to restrain the respondent, a brother of the former president of the dissolved Company, from

carrying on business with his brother in the name of the Sabiston Lithographing & Publishing Co. or any other name so framed as to lead to the belief that his business was in succession to that of the dissolved Company.

> "Held. That the respondent had no right so to represent, but that there was no evidence that he had done so and that the appellants were not entitled to an injunction against the *mere use of the name* (Syl.).

The purchasers from the assignee had incorporated under the name of the "Montreal Lithographing Co. L't'd." (p. 612), and Lord Davey, who also announced an opinion in *Hunt* v. *Trego*,(1896) App. Cas. 25, says:

> "The appellants, on the other hand, were incorporated and registered and have since carried on their business *under a quite different name* and do not allege any intention of using, and indeed have no right to use the old company's name as their trade or firm name. But the appellants have the right to describe themselves as the successors of the old company and as carrying on the same business and they have availed themselves of that right in their circulars. The respondent, on the other hand, has no right to hold himself out as the successor of the old company. But their Lordships cannot find on the evidence in the case that the respondent has done so. There is no representation to that effect in his trade circulars. . . . . .
>
> The evidence and argument all come back to the *mere use of the name* and their Lordships have already expressed their opinion that the appellants are *not entitled to an injunction on that ground alone*". (p. 614.)

In *Knoedler* v. *Boussod*, 47 Fed. 465, 466, Wallace, J. says:

> "It is elementary law that the sale of a business and of its good will does not imply a promise on the part of the vendor not to engage thereafter in a similar business; and the authorities agree that, in the absence of express or implied conditions in the contract of sale to the contrary, the vendor is at liberty to set up a similar business in the same locality and use his own name in carrying it on. The good will of a business comprises those advantages which may inure to the purchaser from holding itself out to the public as *succeeding* to an enterprise which has been identified in the past with the name and repute of its predecessor." (466).

In *Knoedler* v. *Glaenzer*, 55 Fed. 895:

> "The firm of Goupil & Co., Paris & New York, sold to complainant the New York stock, good will &c., together with the right to designate his business as 'Formerly Goupil & Co., M. K. Successor'.
>
> In 1887 the Paris firm which by legal succession had become 'Goupil & Co., of Paris, B. V. & Co. Successors', established a branch of their business in New York under that name. *Held* that they were entitled so to do in the absence of any express contract to the contrary. (Syl. 896, 898).

The Court says (p. 899)

> "Counsel for complainants has cited a number of cases in support of the rule that a person may be enjoined against an unfair or dishonest use of his own name. . . . . But an examination of the cases indicates that they do not apply to a case like the present one. They show that the use of one's

own name has never been enjoined except where it has been accompanied by fraudulent misrepresentations, or imitation of trade marks, or labels, or where the person has by some *express contract* parted with the right to the use of such name, and that *in the absence of such express contract, no abandonment of such right will be presumed.*"

In *Bassett* v. *Percival*, 5 Allen, 345, 347, Bigelow, C. J. said:

"Looking only at the written contract, we are unable to see any clause which can be construed into an agreement by the defendant's testator to refrain from engaging in a similar business to that which he sold to the plaintiffs. There was no *express agreement to that effect, nor can any be implied from that clause of the bill of sale by which the vendor conveys the good will of the store and premises.* It was nothing more than a sale of the custom or trade which appertained to the place where the vendor was then carrying on his business. . . . Wherever such is the intent of the parties it is carried into effect by an *express stipulation*, which, if not in undue restraint of trade, may be valid and binding. *But we know of no such case where any agreement has been raised by mere implication, arising from the sale of the good will* of a person's trade, in connection with a particular business where it has been carried on."

This language is quoted with approval and the principle recognized in the later case of *Hoxie* v. *Chaney*, 143 Mass. 592, 595, 596.

In *Lawrence, Adm'r.* v. *Hull*, 169 Mass. 250, Lawrence, since deceased, sold to his three partners constituting the firm of Lawrence, Wilde & Co.

"all my right, title and interest to and in any and all things and property of whatsoever name or nature in which I have an undivided interest with said Hull, Wilde & Darrow as a member of the late firm of Lawrence, Wilde & Co., which copartnership expired by limatation on the 31st day of Jan., 1889."

Judge Holmes said:

"The words of conveyance are thought to carry the *right to use the firm name* by implication. We are of opinion that they do not have that effect" (pp. 251, 252).

In *Marcus Ward & Co.* v. *Ward*, 40 N. Y. St. Rep. 792:

"The defendant, William H. Ward, is in fact a son of the late Marcus Ward and had a perfect right to represent himself as such. In the agreement which transferred the business of the late firm of Marcus Ward & Co. to the plaintiff corporation, known as 'Marcus Ward & Co. L't'd.,' there was no covenant or engagement on the part of the vendors not to engage in the same business. The defendant, William H. Ward, was therefore entirely at liberty to organize a new firm with his codefendant when he could no longer get on harmoniously with the directors of the corporation and found it necessary or expedient to go into business for himself. He was only stating the truth when he described himself as 'Marcus Ward's Son' and as 'late of the firm of Marcus Ward & Co." (p. 793).

In *Morgan* v. *Schuyler*, 79 N. Y. 490, 494, the Court says:

"*no case holds that the good will includes the right to a continued use of the name of the firm.* Indeed in such a case the retiring partner would have given

up the advantages, but remained liable to the risks and burdens of business, for if his name continued upon the signs or other advertisements of the firm, he would be bound to every one who gave credit thereto, in ignorance of the real state of the case, and liable for all debts contracted in the firm name" (p. 494).

In *Reeves* v. *Denicke*, 12 Abb. Pr. (N. S.) 92, 97, it was held that:

"A purchaser of all the partnership property of a firm, on their dissolution, *does not thereby acquire the right to use the firm name* as a label on his goods or to advertise himself as the successor of such firm and will be restrained in so doing" (Syl.).

"There was no restraint upon the retiring partner holding him from engaging in a similar business; and he violated no obligation to the defendants by forming a new firm under his own name and transacting a business in all respects like that which he had released to them" (p. 97).

In *Wm. Rogers Mfg. Co.* v. *Simpson*, 54 Conn. 527, Wm. Rogers had been employed by plaintiff and the Meriden Brittania Co. for thirteen years (pp. 563, 564). He withdrew and organized the Wm. Rogers Mfg. Co.

"It stamped its goods '(eagle) Wm. Rogers (★)' for the purpose of informing the public that they were the product of the skill of Wm. Rogers, Jr. for the purpose of taking advantage of his reputation in the market; a reputation acquired because of the knowledge of the public that he had been associated with, and *had acquired skill in the art, from his father and others. He had been known to the trade during many years and had acquired and retained a valuable independent reputation in the*

market; and goods known to have been the product of his skill alone had for that reason a better selling value" (p. 563).

The Court refused to enjoin the Company from doing business in that name.

In *Cottrell* v. *Babcock Printing Press Mfg. Co.* 54 Conn. 122, 138, 139, the Court said:

> "In the contract terminating the partnership relation which had existed between Cottrell and Babcock, it is provided *that no business shall thereafter be carried on in the name of the firm; thus reserving to each the full right to the use of his own name.* . . . . . .
>
> By purchasing the good will merely, Cottrell secured the right to conduct the old business at the old stand, with the probability in his favor that old customers would continue to go there. If he desired more he should have secured it by *positive agreement;* presumptively he obtained all that he desired. At any rate the *express contract is the measure of his right;* and since that *conveys a good will in terms but says no more, the Court will not upon inference deny to the vendor* the possibility of successful competition by all lawful means with the vendee in the same business. *No restraint upon trade may rest upon inference*" (pp. 138, 139).

In *Williams* v. *Farrand*, 88 Mich. 473, complainants bought out the interest of defendants in the old firm of Williams, Farrand & Co. The bill of sale assigned "all our right, title and interest in the firm of Farrand, Williams & Co." Complainants adopted the name of "Williams, Sheley & Brooks, successors to Farrand, Williams & Co." Defendants afterwards

formed a partnership under the name of "Farrand, Williams & Clark," and proceeded to do business in another store near by (p. 476). Complainants sought to enjoin them from doing business in that name on the ground that it was liable to be taken for the old firm name.

The Court said in affirming the judgment of the Court below, dismissing the bill:

> "A retiring partner conveys, in addition to his interest in the tangible effects, simply the advantages that an established business possesses over a new enterprise. The old business is an assured success; the new an experiment. The old busjness is a going business, and produces its accustomed profits on the day after the transfer. It is capital already invested and earning profits. The continuing partner gets these advantages. The new business must be built up. . . . . .
>
> "He sells only those advantages and incidents which attach to the property and location rather than those which attach to the person of the vendor. T. Pars. Partn. 409" (p. 483).
>
> "The rule that upon a dissolution of a firm neither partner has the right to use the firm name, as well as the other rule that a retiring partner has no right to use the old firm name, are both subject to the exception that *a person has the right to use his own name unless he has expressly covenanted otherwise*" (p. 488).
>
> "In the present case, Mr. Farrand's name has been at the head of the firm name for nearly half a century and the name of another of the retiring members corresponded with the only other surname used in the old firm name. It must have been

evident to complainants that in any event the name of the new firm would be similar to that of the old firm. If complainants desired any protection against such a use of the names of the retiring members, they should have inserted a provision to that effect in the bill of sale. The right to continue the use of the firm name, as well as a restriction upon the use by a retiring partner of his own name, are proper subjects of bargain, sale and agreement. Here neither have been purchased. . . . . .

Defendants have the right to use their own names, or any collocation of their own names. They have not adopted the old firm name, although it would have been appropriate. They have adopted no fictitious name. There is no deception in the name adopted by them" (p. 489).

"Any collocation of the names of Farrand and Williams would create some confusion. Defendant Clark had been connected with the old business for 30 years and Williams, the son-in-law of Mr. Farrand, for 21 years. . . . . .

In every letter head, bill head, card, or advertisement in which their firm name appears they give the individual names of the members of the firm, the new place of business and in no case have they represented that they are successors to the old firm" (p. 494).

In *White* v. *Trowbridge*, 216 Pa. St. 11, the defendant, W. S. Trowbridge, engaged in the manufacture of molasses candy, coated with chocolate which he sold as "Trowbridge's Chocolate Chips," adopted as a trade mark "Trowbridge's Chocolate Velvet Chips" and a representation of a bucket filled with chocolate chips. He sold an undivided one-third interest to White &

Bender and formed a partnership with them under the firm name of "Trowbridge Chocolate Chip Company." Afterwards the partnership was dissolved, White & Bender having purchased from Trowbridge "all the rights, title, interest, property and claim of him * * * to, and in the said partnership business, together with the *good will, rights, property*; * * *with all other rights or property used in or connected with the said business and the prosecution thereof*" (pp. 11, 13).

Plaintiffs continued to carry on the business under the same name and in the same place, stamping their chips and labeling their packages with the name "Trowbridge" (p. 13).

Nine months after this sale the defendant began again the manufacture of chocolate chips similar in form and appearance, and by correspondence with dealers and otherwise held himself out as being the "originator of the chocolate chips" but his trade marks and labels were not so similar to the others as to deceive a person of ordinary intelligence (pp. 15, 18).

A bill to enjoin him from carrying on such a business in his own name was dismissed in the Court below, and this decision was affirmed in the Supreme Court, The Court said among other things:

> "Counsel for appellants have here advanced the proposition that by the mere transfer of his interest in the *good will* of the business, the defendant was precluded from entering into a similar business in the same town and prosecuting it in competition with the old firm, of which he had been a member. The position is wholly untenable." (p. 19)

and quotes with approval from *Williams* v. *Farrand*, (*Supra*);

> "A retiring partner conveys in addition to his interest in the tangible effects simply the advantage that an established business possesses over a new enterprise." (p. 20).

The Court goes on to say;

> "So long as the defendant does not attempt to sell his goods as those of the old firm, or represent that his business is a continuation of the old firm, he is at liberty to engage under his own name, honestly and in good faith in the same line of business in the same locality. * * *
>
> "The defendant is not deprived of the right to use his own name in connection with the conduct of his business simply from the fact that his surname is a portion of the trade-mark used by the co-partnership of which he was formerly a member, and whose business has been continued by plaintiffs." (p. 20.)
>
> "He also has the right to hold himself out as the person who invented or originated the kind of wares he offers for sale subject to the same limitations." (p. 21.)
>
> "The labels of defendant distinctly relate to his own manufacture and show that the goods are those of W. S. Trowbridge, and not those of the plaintiffs, The Trowbridge Chocolate Chip Co." (p. 21.)
>
> "In fact, the real difficulty in this case is, that the plaintiffs have reason to fear, not that the public will be deceived, but that, if the fact becomes known that the defendant is engaged in the same business, the public will purposely purchase the goods made by him for the reason that he was and is the origi-

nator of the confection known as Chocolate Chips. In other words, what the plaintiffs really desire is protection from the business competition of the defendant carried on openly and frankly by him under his own name. As we have already seen, this is something which they did not provide for under the terms of the written agreement when they purchased from him his interest in the business, and they cannot now be permitted indirectly to attain this end which they failed to stipulate expressly for in negotiating the purchase, and which, presumably, was not included in fixing the amount of the consideration." (p. 22.)

The case of *Iowa Seed Co.* v. *Dorr*, 70 Ia. 481, 485, is very similar. The Court said:

"The clearly distinguishing feature of this case from the most of the authorities to which our attention has been directed, is that *plaintiff has not adopted*, conceding it had the right to do so, *the name of* '*C. W. Dorr & Co.*' At most, it only claims to be the successor of C. W. Dorr & Co. and the right to use the labels, tags, &c. which it purchased. It may be that its claim in this respect is well founded, but it does not necessarily follow that it can prevent the defendant from using that name, *when the plaintiff has not at any time transacted business in such a name.* It certainly by its purchase *did not acquire any right to the name of* '*C. W. Dorr*' *nor did it acquire his business knowledge and experience.* C. W. Dorr clearly has the right to go into business in his own name and we can not see why he cannot do so under the name of C. W. Dorr & Co. unless in so doing he misleads the public or encroaches on the rights of the plaintiff" (p. 485).

See also

Moreau v. *Edwards*, 2 Tenn. Ch. 347, 349.

McGowan Bros. Pump Co. v *McGowan*, 22 O. S. 370.

Chattanooga Med. Co. v. *Thedford*, 58 Fed. 347, 349.

Fish Bro. Wagon Co. v. *LaBelle Wagon Works*. 82 Wisc. 546, 563.

Hazelton Boiler Co. v. *Hazelton*, 142 Ill. 495, 507, 508 (distinguishing Frazer v. Frazer Lubricator Co. 121 Ill. 147).

Helmbold v. *Helmbold M'f'g. Co.* 53 How. 457, 459.

Horton M'f'g Co. v. *Horton M'f'g Co.* 18 Fed. 817.

Armington & Sims Co. v. *Palmer*, 21 R. I. 109. 111, 116.

Bagby & Rivers Co. v. *Rivers*, 87 Md. 400, 419, 420.

In view of the absence of any express license to use the name of Hall's Safe & Lock Co., the provision, on the contrary, that the name of the new Company shall be Herring-Hall-Marvin Co., the further provision for the *dissolution* of Hall's Safe & Lock Co., and the above authorities, we claim that Judge Clark erred in his opinion that

> "There can be no doubt that it acquired the good will, with the right to use the trade name, if it chose to do so, and undoubtedly with the exclusive right to manufacture and sell the trade product known to the markets of the country as the Halls' Safes.
>
> The fact that there was a provision in the contract that the original Hall's Safe & Lock Co. should go out of business and wind itself up, is of

itself quite conclusive in support of these several propositions" (p. 341).

And the Circuit Court of Appeals was right in modifying his injunction and permitting the use of the family name "Hall" in the name of the new company.

The principals for which we contend are recognized in many of complainant's cases. See for example:

Holmes, Booth & Haydens v. *Holmes, Booth & Atwood M'f'g. Co.* 37 Conn. 295.

Where the Court says:

> "At the *dissolution* of the partnership, the partners revert back to their individual rights and responsibilities and *each partner, in the absence of any agreement to the contrary, has an absolute write to control the use of his own name. In all these respects there is no difference between a corporation and a partnership.*"

and in *Treganv. Hunt*, (1896) App. Cas. 7, Lord Herschel said:

> "I think however it must be treated as settled that whenever the good will of a business is sold the vendor does not, by reason only of that sale, come under a restriction not to carry on a competing business." (p. 20.)
>
> "If he has not bound himself by *special stipulation* and if there is no evidence of the understanding of the parties beyond that which is to be found in all cases he is free to carry on his business wherever he chooses. (p. 24.)

and Lord Davey said:

> "he may advertise himself as having been a

partner in, or the founder, or manager of the business which he has sold, provided he does not represent that the business which he is carrying on is the same business as, or identical with that which he has sold. . . . . .

"It has been well settled by a series of cases that in *the sale of a good will or business no convenant is implied* that the vendor will not start a new business in opposition to the purchaser of the old business." (p. 27.)

Complainant's Cases Distinguished.

These facts clearly distinguish the case at bar from all the cases cited for complainant, which may be classified as follows:

(1) Cases in which the name in dispute was made a trade mark, used on labels, brands, &c. and given to the firm, or corporation, by the retiring partner or stockholder, the firm or company going on as before:

Richmond Nervine Co. v. *Richmond*, 159 U. S. 293, 298 to 300
Russia Cement Co. v. *Le Page*, 147 Mass. 206, 211
Le Page v. *Russia Cement Co.*, 51 Fed. 941.
Hoxie v. *Chaney*, 143 Mass. 592
Merry v. *Hoopes*, 111 N. Y. 415
Frazer v. *Frazer Lubricator Co.*, 121 Ill. 147, 157, 159
Spicker v. *Lash*, 102 Cal. 38, 42

(2) Cases in which the vendor sold out his interest in a firm, or his stock in a company, which he had organized and to which he had given his name or some artificial name, and which by the terms of the agreement kept right on doing business in that name:

Menendez v. *Holt*, 128 U. S. 514, 522.
Chas. S. Higgins Co. v. *Higgins Soap Co.*, 144 N. Y. 462.

Meyers v. *Kalamazoo Buggy Co.*, 54 Mich. 215.
Dodge Stationery Co. v. *Dodge*, 145 Cal. 380, 386, 387.
Holmes, Booth & Haydens, v. *Holmes, Booth & Atwood Mfg. Co.*, 37 Conn. 278, 295.
Noera v. *Williams Mfg. Co.*, 158 Mass. 110.
Smith v. *Brand*, 67 N. J. Eq. 529.
Lamb Knit Goods Co v. *Lamb Glove & Mitten Co.*, 120 Mich. 159.
Penberthy Injector Co. v. *Lee-Penberthy Injector Co.*, 120 Mich. 174.
Brass & Iron Works, v. *Payne*, 50 O. S. 115, 116, 117.
Burckhardt v. *Burckhardt*, 36 O. S. 261, 279.
Same case, 42 O. S. 474, 476, 477.
Labouchere v. *Dawson*, L. R. 13 Eq. 322.

(3) Cases in which corporate *franchises*, *name* and *good will* in the hands of a receiver are sold under an order of Court *expressly* naming such things:

Peck Bros. & Co. v. *Peck Bros. Co.*, 51 C. C. A. 251.

(4) Cases in which a dissolution of partnership is effected by legal proceedings and the property and good will of the firm are sold to that partner who bids the highest:

Levy v. *Walker*, 10 Ch. D. 436.
Snyder Mfg. Co. v. *Snyder*, 54 O. S. 86, 93.

In the latter case the order provided that the "purchaser shall have the right to carry on the business as a successor of the Snyder Mfg. Co.," but states

"the Court does not pass upon or make any order whatever as to what name said purchaser would have the right to use in carrying on said business" (p. 93).

Afterwards this same Court enjoined the purchaser from using, and incorporating under, the name Snyder Mfg. Co., but the Supreme Court reversed the decision on the ground that to permit one of the partners to use that name if he purchased and not to permit the other to do so if *he* purchased would be inequitable. It will be observed that no question was raised in either of these cases as to the right of the retiring partner to enter into a similar business and to use his (or her) name in such business.

Trego v. *Hunt*, (1896) App. Cas. 7—is peculiar. In that case Hunt was admitted as a partner in an old established firm, the articles providing that the partnership should terminate in seven years and that at the end of the term the good will should remain the sole property of Anna Trego. Just before the end of the term, Hunt set bookkeepers and clerks to work copying out the names and addresses of customers, etc., with the avowed purpose of using the information thus secured in setting up a competing business. He was enjoined from so doing. It has no bearing on the question involved in this case.

Have the Halls parted with their right to use their name in business?

Passing by all the remarkable coincidences in the facts of the two cases and seeking to diminish the force and effect of the Court's reasoning and conclusions as applied to the facts of this case, counsel for Com-

plainant seizes upon the *exceptions* noted in the opinion and claims that the *Halls* are barred by *contract* from their natural right to use their names and that therefore, *Howe Scale Co.* v. *Wyckoff* does not apply. If he is right in this contention, or if that is the real ground of his action then his proper remedy is an action at law for damages for breach of contract, or a suit in equity for specific performance *setting out the contract*, and not a suit for unfair competition.

Von Faber-Castell, v. *Faber*, 139 Fed. 257, 260.

In a suit based upon *contract*, the weakness of complainant's case would be instantly exposed. What is the contract? With whom was it made? What was the subject matter? The defendants, Edward C. Hall and William H. Hall, had contracts with Herring-Hall-Marvin Co. from which they were released. These are set forth in the answer. They had no other contracts. The defendant, Charles O. Hall and the other brothers entered into no contracts of any sort with Herring-Hall Marvin Co.

But complainant's counsel says they are bound by the Company's contract and bill of sale to Cox & Segur, because, *as stockholders*, they agreed that the *Company* might dispose of *its* property and business and cause *itself* to be wound up and dissolved. The contract and bill of sale, however, speak only of the *Company's* rights, property and business. They do not assume to dispose of any of the stockholders' rights, property and business. The *Company agrees to go into liquidation and dissolve as soon as it can be wound up under the laws of Ohio.*"

Does this require that the individual stockholders shall cease to do business and commit hara-kari?

The cases cited for Complainant have no relation to the facts of this case.

In *State* v. *Standard Oil Co.*, 49 O. S. 137, 177, 184, the Court held that where all the officers and all the stockholders of a Company united with the officers and stockholders of other companies for the purpose of effecting an illegal trust and controlling the action of their own company in accordance therewith.

> "And where the act so done is *ultra vires* of the corporation and against public policy and was done by them in their individual capacity *for the purpose of concealing their real purpose and object*, the act should be regarded as the act of the corporation and, to *prevent the abuse of corporate power*, may be challenged as such by the state in a proceeding in *quo warranto*" (pp. 184-5).

In *McKinley* v. *Wheeler*, 130 U. S. 630, the court says:

> "The sole question presented for our determination is whether a corporation created under the laws of one of the states of the Union, all of whose members are citizens of the U. S., is competent to locate or join in the location of a mining claim upon the public lands of the United States in like manner as individual citizens" (631-2).

and further

> "The doctrine is well established *that rights with respect to property held by citizens are not lost because they unite themselves into corporate bodies.* They are subsequently as able to invoke the law for the enforcement of their rights as previously, the courts in such cases looking through the name in order

to protect those whom the name represents" (pp. 634-5).

which is pretty good doctrine for defendants.

In *Anthony* v. *American Glucose Co.*, 146 N. Y. 407,

> "A new corporation having been organized by the transfer to it of the property and business of certain original corporations, upon an agreement between the corporators of all of them that payment for the transfer should be made by apportioning *to the original stockholders the whole of the stock of the new corporation*," &c.

It was held that one of the original stockholders might maintain an action for the delivery to him of his share of the stock,

> "It appearing that the new corporation owed a contract duty directly to the individual corporators and not to their corporate entities" (pp. 412, 413).

Kidd v. *Johnson*, 100 U. S. is a *trade mark* case, pure and simple. The only question was whether the purchasers of the business carried on by S. N. Pike & Co. had the right to use the brand "*S. N. Pike's Magnolia Whiskey*" theretofore placed on all its product by the vendors. At the time of the sale;

> "Pike executed and delivered to the purchasers a separate instrument, stating that, having sold his premises to them he extended to them and their successors the *use of all his brands used by him in his Cincinnati house*." (p. 618).

Here was an *express contract* for the use of the name and trade mark, such as does not exist in our case.

In *Churton* v. *Douglas*, Johns. 174, the facts are that John Douglas had been carrying on business with others

under the name of "*John Douglas & Co.*" They sold this business and the good will thereof to plaintiffs who carried on the business under the name of Churton, Bankart & Hirst, late John Douglas & Co. (177) Before the year was out Douglas alone opened up a store next door to the old place of business and took the identical name of the old firm, "John Douglas & Co." He was enjoined from carrying on business in that name, but the Court affirmed his right to carry on a similar business in his own name, "John Douglas."

The Court says

> "I use the expression *similar* business purposely in order to distinguish the case I am supposing from one where, as here, the vendor seeks to set up again the *identical* business which he has professed to sell. Upon a sale of the good will of a business the vendor is not precluded from carrying on a *precisely similar business with all the advantages he may be able to acquire from his own industry and labor and from the regard people may have for him*, and that in a place next door, for example, to the very place where the former business was carried on. And upon the authorities it is settled that if the purchaser wishes to prevent that step from being taken, it is his fault if he does not take care to insert provisions to that effect in the deed." (p. 187)

Hill v. *Fearis*, (1905) 1 Ch. 466, is authority for but a single proposition. A surviving partner who carries on the business in the old firm name without any contract with the heirs or executors of the deceased partner, is liable to account to the representatives of the deceased partner not only for his share of the capital invested,

but for the value of the *firm name*, which he has been using.

Birmingham Vinegar Co. v. *Liverpool Vinegar Co.* &c. 4 Times L. R. 613, falls under that class of cases where a person, who for a consideration has allowed the use of his name in the brands, or labels on the product of a firm, or company, cannot give the same right to another company.

Drake Medicine Co. v. *Glessner*, 68 O. S. 337; is simply a case of close imitation of labels by the defendant for the purpose of selling his medicine as and for plaintiff's well advertised nostrum. It has no bearing on the facts of this case.

Walter Baker v. *Slack*, 130 Fed. 514, was decided about the time this suit was brought and is authority for the proposition that the first person who uses his name in a particular line of business and advertises it extensively, acquires a monopoly on the use of that name in that business, so that no one else of the same name may engage in a similar business or sell the product of any one engaged in a similar business, without conditions and explanations which are simply impracticable in ordinary business. We do not think it would stand the test of judicial review in the Supreme Court of the United States.

None of these cases support the contention of Complainant's counsel that the contract of the Company for the sale of *its* business and property is the contract of the stockholders and binds them individually.

There has been no decision, of which we are aware, that goes to the extent claimed by counsel for complain-

ant, or reverses the holding of the U. S. Supreme Court in *Bank of Augusta* v. *Earle*, 13 Pet. 519, 586, 587.

Commenting on *Bank of U. S.* v. *Deveaux*, the Court says in that case;

> "But the principle has never been extended any farther than it was carried in that case; *and has never been supposed to extend to contracts made by a corporation;* especially in another sovereignty. If it were held to embrace contracts, and that the members of a corporation were to be regarded as individuals carrying on business in their corporate name and therefore entitled to the privileges of citizens in matters of contract, it is very clear that they must at the same time take upon themselves the liability of citizens and be bound by their contracts in like manner. The result of this would be to make a corporation a mere partnership in business in which each stockholder would be liable to the whole extent of his property for the debts of the corporation" (p. 586).
>
> *Whenever a corporation makes a contract it is the contract of the legal entity or the artificial being created by the charter, and not the contract of the individual members.* The only rights which it can claim are the rights given to it in that character and not the rights which belong to its members as citizens of a State" (p. 587).

In *Richmond Construction Co.* v. *Richmond R. R. Co.* 31 U. S. App. 704, 712, Judge Lurton had occasion to pass on a similar question. He said:

> They contend that under the evidence in this case the contract Co. was in legal effect the R. R. Co. and that engagements made by it were in legal effect engagements made by the R. R. Co. In support

> of this, the appellants have endeavored to show that the *stockholders in each corporation were the same* and that the Contract Co. dominated and controlled the R. R. Co. The Contract Co. was a legal corporation wholly distinct and separate from the R. R. Co. The fact that the stockholders in each may have been the same persons, does not operate to destroy the legal entity of either corporation" (Syl. 2, pp. 712, 713).

In *Bronson* v. *La Crosse R. R. Co.* 2 Wall. 302, where certain stockholders of a company undertook to make a defense for the corporation, the latter not having entered its appearance, the Court says:

> "The corporation not being before the Court, it would not be bound by any order or decree rendered against it, nor by any admissions made in the answer or stipulations that might be entered into by the parties or their counsel."

In *Van Allen* v. *The Assessors*, 3 Wall. 584, the Court says:

> "The corporation is the legal owner of all the property of the bank, real and personal; and within the powers conferred upon it by the charter and for the purpose for which it is created can deal with the corporate property as absolutely as a private individual can deal with his own. This is familiar law and will be found in every work that may be opened on the subject of corporations."

and quotes with approval Lord Denman's observation in *Queen* v. *Armand*, 9 Ad. & E. (*N. S.*) 806:

> "The individual members of the corporation are no doubt interested in one sense in the property of the corporation as they may derive benefits from

its increase or loss from its decrease; but *in no legal sense are the individual members the owners.*"

Many other cases might be cited to the general proposition that, in matters of property, right of control and of contract, the corporation is a legal entity entirely distinct from the stockholders and that the corporation can no more dispose of their individual property and rights than they, as individuals, can dispose of its. It is a startling novelty to assert that when a stockholder assents to the *dissolution* of a corporation, he thereby shuts himself off from the right to engage in the same *business* or to use his individual name in such business, and that, when he has given his assent for the express purpose of clearing the field for his own future use, he shall not be allowed to enter that field.

For purposes of *remedy* courts will, when necessary, look through the corporation to the stockholders. But in dealing with questions of *contract* courts always consider the corporation and its stockholders as wholly distinct. This is the principle of Bank of Augusta v. Earle.

The fallacy of the argument which identifies the selling company and its stockholders here, is this:

By merely assenting to the making of this contract by the corporation, not only did each stockholder become personally a party to it but its subject matter was, *ipso facto*, enlarged so as to include in the conveyance made by the corporation the individual rights and property of the stockholder, as well as those of the corporation.

The mere statement of the proposition in its exact terms refutes it. And it proves too much. The corpora-

tion agreed that it would not thereafter engage in the safe business. Therefore none of the stockholders could do so, if the proposition be sound. Counsel recoils from this conclusion. Yet there is exactly the same basis for it as there is for the conclusion contended for, viz: that because the company, according to the claim of counsel, granted the right to the name "Hall" in one collocation of words, no stockholder, though his true name be Hall, can use it in another distinct collocation.

Counsel cannot face both ways. When he admits, as he does, that each individual Hall may go into the safe business, provided he do not represent it as the old business acquired by complainant, he is forced also to admit that each Hall may use the name Hall in that business, provided he do it so as not to make believe the name he uses is that of the corporation to whose business complainant succeeded.

The whole trouble arises from confounding assent to corporate action with contract for personal action.

Hall's Safe & Lock Co. did not grant the right to use its name.

If it were possible to bind the individual stockholders by making a contract with the Company, Complainant must still fail in its contention, for it did not secure from Hall's Safe & Lock Co. its franchise or the right to use its name. As we have heretofore stated (supra, pp. 2 to 4) the Company retained its franchise, corporate existence, and of course its name, until it was formally dissolved by decree of Court more than three years after it had disposed of its business and property.

No other Company had the right during that time to use that name. The stockholders retained their stock. Not a share of it passed to the purchasers. So far from permitting the use of its name by the purchasers, it was stipulated as a *condition precedent*, in the option given to the purchasers and assented to by the stockholders, that the name of the new company should be HERRING-HALL-MARVIN COMPANY. The new company was organized *with that name*, and the first article of the Charter provided that it was "*to be used in its dealings*," before any sale, or transfer was made. (Defts' Ex. No. 268, at p. 345; Defts' Ex. No. 262, p. 316). The first step taken by the Herring-Hall-Marvin Co., was to advise all the dealers, agents and customers of Hall's Safe & Lock Co. that said company was "*no longer in existence*," that they had been succeeded in business by the Herring-Hall-Marvin Co., that all deposits, checks and correspondence were to be in the name of Herring-Hall-Marvin Co. and that where it related to an old deal which was effected by Hall's Safe & Lock Co. the letters were to be signed—Herring-Hall-Marvin Co. *Successors*—(Defts' Exhibits, Nos. 215 to 219 incl., pp. 311 to 314).

Severin Ebel, W. H. Hall and E. C. Hall testify that shortly after the transfer, the old names, "Hall's Safe & Lock Co." on the factory buildings, office and Burnet House store were all painted out, and the name "Herring-Hall-Marvin Co." painted in; that Hall's Safe & Lock Co.'s stores in New York and Philadelphia were immediately abandoned and the old signs were taken down and never put up again; and that the only

name which appeared on the new Company's stores in those places was the corporate name "Herring-Hall-Marvin Co." (Ebel. pp. 109, 114; W. H. Hall, pp. 151, 152; E. C. Hall, pp. 226 to 228).

All new stationery was ordered with the name "Herring-Hall-Marvin Co." and the name "Hall's Safe & Lock Co." did not appear anywhere upon it. Where there was any considerable stock of letter heads on hand they were altered by having a heavy bar printed across the old name and the words "Herring-Hall-Marvin Co." printed underneath. (See Deft's. Ex. No. 225, p. 477).

When Herring-Hall-Marvin Co. took over the business of Hall's Safe & Lock Co. there was on hand a large number of morocco bound illustrated catalogues, which became the property of the new company and they continued to use them. They were for the use of agents and traveling salesmen and were supposed not to go out of their hands. When customers asked for prices and styles of safes, a leaflet was given them showing safes of about the size and style called for. These were all printed with the name Herring-Hall-Marvin Co. on them in place of Hall's Safe & Lock Co. (Pullen, pp. 59, 72; W. H. Hall, pp. 149, 162).

The Herring-Hall-Marvin Co. got up a new and very elaborate illustrated catalogue in 1897 and a separate price list. The names "Hall's Safe & Lock Co." "Hall's Safes" and "Hall's Standard Safes" do not appear anywhere in it. The name "Herring-Hall-Marvin Co." is at the head of every page and the name "Standard", without the word "Hall", is found on pages 52,

and 54 to 57 incl. (Deft's Ex. Nos. 202, pp. 472, 209, p. 474; Pullen, pp. 77, 84).

This was more than five years after Hall's Safe & Lock Co. sold out and more than a year after the Halls left the Herring-Hall-Marvin Co., and incorporated The Hall's Safe Co.

Until after August, 1895, the safes of Herring-Hall-Marvin Co. were marked with the name of the Company and the place of manufacture or sale. No such words as "Hall's Safes," or "Hall's Standard Safes," or "Hall's Safe & Lock Co." were placed on them after the safes on hand where shipped out. Palm Bros. who furnished all of the transfers used in lettering safes for the various concerns had no order for any such transfers from May, 1892, to August, 1904, after the beginning of this suit, when plaintiff ordered some with the name "HALL'S STANDARD SAFES" (Pullen, pp. 78, 79; Palm, pp. 128, 130, 131. Ebel, pp. 111, 116, 119, 120; W. H. Hall, pp. 149, 150; E. C. Hall, pp. 228 to 230).

Neither the Herring-Hall-Marvin Co. nor its receivers ever spent any money in advertising "Hall's Safes", or "Hall's Standard Safes" or "Hall's Safe & Lock Co." The name "Hall's Safe & Lock Co." was taken out of all city and business directories and did not appear again until shortly before this suit was brought (Pullen, pp. 81, 84; W. H. Hall, pp. 146, 153; E. C. Hall, p. 228, 230.

Herring-Hall-Marvin Co. abandoned the old Hall's Safe & Lock factory in Cincinnati and moved to Hamilton, O. in the summer and fall of 1897. They never had an office or place of business in Cincinnati from that time until after this suit was brought. It was after they had

abandoned the old Hall's Safe & Lock factory that they first thought of advertising themselves on their envelopes and stationery as "Successors of Hall's Safe & Lock Co., *Operating Hall's Safe & Lock Works*," and this was more than a year after The Hall's Safe Co. had been incorporated (Defts'. Ex's Nos. 223 to 227, pp. 477 to 478; 286 to 309, pp. 479 to 487; Macbrair, pp. 122 to 125; Palm, pp. 128 to 131; W. H. Hall, pp. 145, 149, 150, 152; E. C. Hall, pp. 224, 229, 234).

Complainant's witness, Mr. Pullen, testifies that neither he nor the receivers of Herring-Hall-Marvin Co. ever used the name "Hall's Safe & Lock Co." in their correspondence. This is contradicted, but the significant fact is that Mr. Pullen regarded it as improper to do so. He says:

> "X. Q. 188—When you receive letters at Hamilton addressed to Hall's Safe & Lock Co. in what name do you answer them?
>
> A. The Herring-Hall-Marvin Co. or the Herring-Hall-Marvin Safe Co., invariably referring to the fact that we received the letter, acknowledging the receipt of the letter, and advising that the Herring-Hall-Marvin Co., or the Herring-Hall-Marvin Safe Co., who was the successor to the Hall's Safe & Lock Co., whose plant was now located at Hamilton, &c. in that strain. *There was never any deception used by me or permitted by one of my employees.*"
>
> X. Q. 190—Did you ever use the name of the Hall's Safe & Lock Co. in your correspondence?
>
> A. Knowingly I never have, no sir, except as alluded to herein" (pp. 81, 100).

The allegations of the petition that

> "Immediately upon the organization of said Herring-Hall-Marvin Company, its said plant at Cincinnati, acquired from said Hall's Safe & Lock Company, was designated * * * as Hall's Safe & Lock Works and it advertised and held itself out and was known to the trade as the successor of said Hall's Safe & Lock Co. and as operating Hall's Safe & Lock Works. Its buildings were covered with signs lettered 'Hall's Safe & Lock Works' and its safes were marked 'Hall's Safe & Lock Works' and designated as 'Hall's Standard Safe' (pp. 5, 6).

are contradicted by complainant's own witness, Mr. Pullen, as well as by defendant's witnesses and all the documentary evidence in the case which has any bearing on the fact. No such names appeared on the buildings, or anywhere else, until June, 1895, more than three years after Herring-Hall-Marvin Co., had acquired the property and business and after E. C. Hall and W. H. Hall had been deposed from their respective offices as President and Treasurer. (Pullen, pp. 45, 46, 87, 88; E. C. Hall, pp. 221, 225). The record Pullen refers to, as confirming his recollection, is his own report to the Board that the buildings had been repainted. It says nothing about *signs*. (pp 66, 67).

The testimony of John H. Winder, the man who painted the signs, Severin Ebel, the man who superintended the painting, W. H. Hall, who contracted for the same, and E. C. Hall shows that the names were not altered to Hall's Safe & Lock *Works* until the last of June or first of July, 1895. The books of Mr. Winder

were produced and show an order entered on June 17th, 1895, to alter all names to "Hall's Safe & Lock Works" and an entry in the cash book showing payment of the bill, July 8th, 1895 (Winder, pp. 107 to 109; Ebel pp. 111, 114, 120; W. H. Hall, pp. 145, 151, 200 to 202; E. C. Hall. pp. 228, 229).

Plaintiff's exhibits showing change of letter head to "Hall's Safe & Lock *Works*" shows in a scroll at the left the names of "E. C. Hall, R. T. Pullen, Managers." They were not constituted *managers* until the meeting of June 6th, 1895, and it was at that meeting, that Mr. Marvin proposed that they should run "the different factories *under their old names as near as they could within the law*" (W. H. Hall, pp. 144, 145).

The wording of the resolution and the form of name adopted "Hall's Safe & Lock *Works*" shows that the *directors knew they had no right to use the corporate name of Hall's Safe & Lock Co.*

The name "Hall's Safe and Lock *Works*" was a mere fiction. It stood for nothing and the right to use it was not acquired from anybody in any lawful way or for any just compensation. Its use on order blanks and contracts was abandoned soon after, owing to practical difficulties of doing business in that name and during the year 1897, the *Works* themselves were abandoned and Herring-Hall-Marvin Co. moved to a new factory in Hamilton, Ohio. (Ebel, pp. 118, 120; W. H. Hall, pp. 152, 204; E. C. Hall, p. 234).

This practical interpretation of the contract by the parties by their conduct, before any controversy arose,

should be decisive of the question, even if the language of the option of purchase and the various bills of sale left any doubt as to the intention of Hall's Safe & Lock Co. not to convey its name.

> "It is a fundamental rule that in the construction of contracts the courts may look not only to the language employed, but to the subject matter and the surrounding circumstances, and may avail themselves of the same light which the parties possessed when the contract was made."
>
> *Merriam* v. *United States*, 107 U. S., 441.
>
> "The Court may put itself in the place of contracting parties and then, in view of all the facts and circumstances surrounding them at the time of the execution of the instrument, consider what they intended by the terms of the agreement."
>
> *Tillitt* v. *Mann*, 43 C. C. A., 617.
>
> "If there was any doubt or ambiguity arising upon the words employed in the clause of the contract under consideration, they would be effectually removed by this practical construction continuously put upon them by the conduct of the parties far so long a period." "In cases where the language used by the parties to the contract is indefinite or ambiguous, and hence of doubtful construction, the practical interpretation of the parties themselves is entitled to great, if not controlling, influence."
>
> *Topliff* v. *Topliff*, 122 U. S., 131.
>
> *Chicago* v. *Sheldon*, 9 Wall, 50, 54.

The attempt of a Company organized in 1900 to assert claims and rights which were never asserted by

the original purchaser cannot affect the rights of the parties as fixed by the contract and the conduct of the parties under it, until the original purchaser was wound up by judicial sale.

While some cases may be found in which it was held that the sale of a firm's or company's "business, property and good will" carried with it the right to use the name of such firm or corporation, it will be found that the circumstances of such sales were peculiar and that they are, by no means, authority for such general proposition. The great weight of authority is against this proposition and establishes, instead, the doctrine that when a purchaser wishes to use the name of the vendor he must secure that right by *express contract*, otherwise he will be assumed to have purchased only the assets and such advantages as may accrue from succeeding to an established business and carrying it on at the old stand. (See cases discussed Supra. pp. 34 to 47).

An appeal has been made to the sympathies of the Court on the ground that the purchaser paid an enormous price for the business, property and good will of Hall's Safe & Lock Co., and to allow the Halls to enter into a competing business and to use their name in such business "derogates from the grant" and greatly diminishes its value.

Plaintiff's exhibit No. 1. Schedule "A" (p. 95) shows that the tangible assets, leaseholds, buildings and accounts receivable, alone, were appraised by the purchasers' experts at $1,015,161.73. Besides these, Hall's Safe & Lock Co., turned over 32 patents which were not appraised (p. 351) and surrendered a growing and

profitable business, with all the forces for carrying it on, amounting to over a million dollars a year. It was said to be and probably was the largest safe business in the world at that time. (Pullen, pp. 41, 42; Prospectus, p. 358; W. H. Hall, pp. 144, 180, 181; E. C. Hall, pp. 230, 265, 266).

For this valuable property and business Hall's Safe & Lock Co. received only $700,000 in cash. The $650,000 in Common Stock of the Herring-Hall-Marvin Co. cost that company nothing, but the expense of paper and printing. No one ever paid a dollar for it and it proved to be absolutely worthless. (W. H. Hall, pp. 144, 170, 171; E. C. Hall, pp. 230, 233, 234; Defts' Ex. No. 270, p. 349).

So far from paying an enormous sum for the use of the *name*, the purchasers did not even pay for the physical assets. The Complainant paid only $100,000 and assumed liabilities of the Receivers amounting to $100,000 more for all the combined assets of the three great companies—or what was left of them in 1900.

The Herring-Hall-Marvin Co., made contracts with Edward C. Hall and William H. Hall, one of the expressed objects of which was to keep them from engaging in any competing business, and all the company had to do to secure immunity from the competition of the Hall's was to comply with the terms of its own agreements. This it failed to do and it preferred to give them a full release from all obligations under these contracts to paying them the moderate salaries stipulated for as a consideration for surrendering their independence. (Defts' Ex's Nos. 272, 274 to 276, pp. 352 to

354; Nos. 394 to 398, pp. 403 to 406; Pullen, p. 89; W. H. Hall, pp. 140, 142, 143; E. C. Hall, pp. 221, 223, 224).

The appeal to the *sympathies* of the Court, in view of these facts, sounds rather hollow.

Defendant not guilty of Fraud or Unfair Competition.

The Hall's Safe Company was incorporated under the laws of Ohio, September 10, 1896. The incorporators were Edward C. Hall, William H. Hall, Charles O. Hall, A. Acton Hall and Walker P. Hall. (Defts.' Ex. No. 264, p. 331). All of the incorporators were sons of Joseph L. Hall and had been engaged in the safe business from the time they were boys. Edward C. Hall went to work for Hall's Safe & Lock Co. in 1868 and worked at every branch of the business in the shops and in the office, and acquired a practical knowledge of the business in all its details. He became a director and Vice-President of the Company in 1875 and succeeded to the presidency on the death of his father, in March, 1889. He had never been engaged in any other business and did not know much of any other business.

William H. Hall went to work for Hall's Safe & Lock Co. in 1874. He, too, worked at every branch of the manufacturing, and acquired a practical knowledge of the business. He became a director of the Company in 1884, and Vice-President and purchasing agent of the Company in March 1889, and succeeded his brother, Edward, as President, May 7th, 1892. They had an extensive acquaintance among dealers, material men,

agents, bankers, and their relations with such people had always been pleasant. They obtained and always enjoyed a high reputation as safe makers and honorable business men. Charles O. Hall began work for Hall's Safe & Lock Co. in 1876. He, too, worked in the shops and acquired such a practical knowledge of the business that he was made assistant superintendent. He left the safe business in 1895 and engaged in a bicycle sprocket business and lost all he had and became heavily involved. He is now dependent on his knowledge of the safe trade for a living. The other brothers had also been engaged in the safe business from the time they were old enough to work. (Pullen, pp. 64, 65; W. H. Hall, pp. 138, 140, 141, 217, 218; E. C. Hall, pp. 221, 222, 232, 264, 265.)

Besides the boys above named, two sisters subscribed for stock and have a substantial interest in the business. Their husbands are directors and one, S. F. Kemper, is Secretary. (W. H. Hall, p. 218; E. C. Hall, p. 231; Plff.'s Ex. No. 46, pp. 456 to 458 and 48, p. 297).

The name "Hall" was the family name and the *only name common to all the incorporators and stockholders.* The word "Safes" expresses, in the briefest possible form, the nature of the business in which they were about to engage. It was the most natural name for them to adopt and the only one likely to give permanent satisfaction. Manifestly the individual names of all of them could not have been used. Jealousy and a refusal to subscribe for stock might have resulted from an attempt to name the company after any *one* of them. There were none connected with the Company except members of the Hall family and it would have been manifestly

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improper to have given it the name of any other person, or family. To have adopted a fictitious name, such as "The Continental Safe Co.," suggested by Mr. Maxwell (pp. 182, 183, 264), would have stripped them of their identity and thrown away all the advantages inherent in their long experience, honorable reputation and extensive acquaintance in the safe business. (W. H. Hall, pp. 182, 183, 217, 218; E. C. Hall, pp. 221, 222, 256 264). It must not be forgotten that this experience, reputation and favorable acquaintance was strictly *personal*, and had been acquired by them as individuals. These important facts differentiate the case from all such cases as

Garrett v. *Garrett*, 24 C. C. A. 173

where a mere employee who had no substantial interest in the business lent his name to a company whose stock was chiefly held by others, and

Royal Baking Powder Co. v. *Royal*, 58 C. C. A. 499

Robinson v. *Storm*, 103 Tenn. 40, 43.

De Long v. *De Long Hook & Eye Co.*, 89 Hun. 399, 401, 402.

J. & P. Coates v. *John Coats Thread Co.*, 135 Fed. 178, 180.

International Silver Co. v. *Rodgers Bros. Cutlery Co.*, 136 Fed. 1019.

Same v. *Wm. H. Rogers Corporation*, 67 N. J. Eq. 646, 647, 648.

where a person who had never had any experience in that particular business turned aside from his regular occupation and embarked in a new business with the fraudulent intent to reap the benefit of the older company's extensive advertising; and

Peck Bros. & Co. v. *Peck Bros Co.*, 51 C. C. A. 251, 258, where defendants "assumed falsely the name 'Peck Bros.' there being no brothers of that name in the incorporation"; and

Pillsbury v. *Eagle*, 30 C. C. A. 386, 395, 396

where defendants sold flour made in Milwaukee, falsely branding it "Minneapolis, Minn." and

Singer Mfg. Co. v. *Bent*, 163 U. S. 205, 206

where defendant, doing busines in Chicago and having no office or factory in New York, falsely marked its machines, "*NEW YORK S. M. MFG. CO. WARRANTED.*"

The statutes of Ohio provide, as do those of many other states, that no company shall be permitted to adopt the name of any other company doing business in the state of Ohio, or of any name so similar as to mislead. The granting of a charter is prima facie evidence that this condition was complied with. The only Company engaged in the safe business in the state of Ohio at that time, having the name, "Hall," in its title, was the Herring-Hall-Marvin Company, and there was no similarity in the names that could mislead anybody. Hall's Safe & Lock Co. had retired from business in May, 1892, gone into liquidation and been dissolved by order of court, by express agreement with Herring-Hall-Marvin Co., so that it was no longer in the field. Defendants did not adopt or imitate the name of *this* Company. If such had been their intention they would have added the important words "*and Lock*" to the combination. Granted the right to engage in the safe business at all,

and to make use of their personal experience, reputation and acquaintance, it is difficult to see how the adoption of their name can be criticised or what better one could be suggested. When questioned in the Circuit Court of Appeals, Counsel for applicant denied their right to use the name "Jos. L. Hall's Sons", as that would suggest succession to Joseph L. Hall. For the same reason he might object to the "Edward C. Hall Safe Co.", for that would suggest succession to E. Hall & Co., the grandfather's firm. The fact that such firms have been out of existence for forty or fifty years makes no difference from his standpoint. If a similar name has *ever* been used, respondents are barred. It should also be remembered that they were advised by counsel that they had the right to use the name adopted by the Company. (W. H. Hall, pp. 181, 182; E. C. Hall, pp. 251, 254).

The facts proved with regard to the marking of their goods so as to show their origin, and the absence of proof of any attempt to sell a safe or vault as the product of complainant, or that anyone ever bought from them a safe or vault supposing that he was buying from complainant or the old Hall's Safe & Lock Co. (supra. pp. 8, 9). dispose of the general charge of fraud and unfair competition.

It is not enough to say that defendants have been guilty of misrepresentation or false advertising—which we deny—or that people have purchased safes from them, believing they were dealing with the old Hall's Safe & Lock Co.—which we also deny. It must appear that they have succeeded in palming off goods

of *their* manufacture as the goods of the *complainant*, or the action for unfair competition fails.

> "Relief in equity to restrain unfair trade is granted only where the defendant by his marks, signs, labels, or in other ways represents to the public that the goods sold by *him* are those manufactured or produced by the *plaintiff*."

Goodyear Co. v. *Goodyear Rubber Co.* 128 U. S. 598, 604.

Commenting on the cases of *Croft* v. *Day*, *Holloway* v. *Holloway* and *McLean* v. *Fleming*, Mr. Justice Brown says:

> "These cases obviously apply only where the defendant adds to his own name imitations of the plaintiff's labels, boxes, or packages and thereby induces the public to believe that *his* goods are those of the *plaintiff*. . . . . .
>
> "The theory of a trade mark proper then being untenable, this case resolves itself into the question whether the defendants have by means of simulating the name of plaintiff's preparation, putting up their own medicine in bottles or packages bearing a close resemblance to those of plaintiff or by the use of misleading labels or colors, endeavored to palm off *their* goods as those of the *plaintiff*." . . . .
>
> "The law does not visit with its reprobation, a fair competition in trade; its tendency is rather to *discourage monopolies*, except where protected by statute and to *build up new enterprises* from which the public is likely to derive a benefit."

Brown Chemical Co. v. *Meyer*, 139 U. S. 544.

He continues:

> "The right of the plaintiff to maintain this bill then

must rest upon the assumption that the words 'Brown's Iron Tonic,' bear such a resemblance in sound and appearance to the words 'Brown's Iron Bitters' that the public are liable to be misled. But if the words 'Iron Bitters', cannot be lawfully appropriated as a trade mark, it is difficult to see upon what theory a person making use of these or similar words can be enjoined. . . . . If the defendant be liable at all then it must be by addition of the patronymic 'Brown' to the words 'Iron Tonic'. But the evidence shows that the preparation was originally compounded by a person of that name of whom the present manufacturers are the successors in business, and in the absence of testimony tending to show an intention to palm off *their* preparation as that of the *plaintiff*, they have a right to such use." (ib. p. 547).

In *Howe Scale Co.* v. *Wyckoff*, 190 U. S. 118, 140, Fuller C. J. says:

"The essence of the wrong in unfair competition consists in the sale of the goods of one manufacturer or vendor for those of another, and if defendant so conducts his business as not to palm off *its* goods as those of *complainant*, the action fails."

In *American Washboard Co.* v. *Saginaw Mfg. Co.* 43 C. C. A. 233, 236, 237, Mr. Justice Day said:

The only basis for a private suit for an injunction against unfair competition is the injury to the property rights of the *complainant*. The fact that the defendant deceives the public as to his goods by fraudulent means, while an important factor in such a suit, does not give a right of action, unless it results in the sale of such goods as those of the *complainant*." . . . . .

"Imposition on the *public*, occasioned by one man selling his goods as the goods of *another*, cannot be ground of private action or suit."

In *Computing Scale Co.* v. *Standard Computing Scale Co.*, 55 C. C. A. 459, 465, Judge Lurton said:

"The complainant's scales have in a conspicuous place on each scale the words "The Computing Scale Co., Dayton, Ohio, U. S. A." This is complainant's corporate name and no other name or descriptive words are placed on its scales. The defendants place on each of their scales their corporate name, 'The Standard Computing Scale Co., Limited, Detroit, Michigan.' On the beam used by complainant for their corporate name, the defendants have placed the words in conspicuous letters 'Standard Computing Scale.' These two name plates plainly distinguish the scale made by the defendant from the scale made by complainant."

See also:

Centaur Co. v. *Marshall.* 38 C. C. A. 416, 417.
Wrisley Co. v. *Iowa Soap Co.*, 59 C. C. A. 54, 56.
Baker v. *Baker*, 53 C. C. A. 157, 159.

Defendants have the right to manufacture, advertise and sell "Hall's Safes".

The right to advertise and sell their safes as "Hall's Safes," is based by defendants on two grounds: (1) the fact that they *are* Hall's Safes, i. e. made by and under the supervision of the Halls; and (2) that the name designates an article which became well known as "Hall's Safes" while protected by Letters Patent and is a descriptive term which may be used to designate safes

made by any one in accordance with such patents, now that the patents have expired.

(1) The safes manufactured and sold by the defendants are made under the supervision of the Halls and are undeniably Hall's Safes. They would be popularly known and designated as such irrespective of the name which the Hall boys might adopt for carrying on their business, unless the fact that they were in the business was absolutely suppressed. It is because they are made by the Halls, who are well known to the trade, that they sell. If the Halls have the right to make and sell the safes they have the right to be known as engaged in the business, and their advertising is not untruthful or misleading.

(2) Joseph L. Hall was an inventor and took out a great many patents which he either assigned to or held for the benefit of Hall's Safe & Lock Co. as long as he lived. Most of the safes manufactured and sold by "Hall's Safe & Lock Co." were marked "Hall's Patent." The illustrated catalogues and circulars on every page had pictures of various styles of safes and the words, "Hall's Patent," appeared on each of these pictures of safes. (Stipulation, p. 2; Plff's Ex. No. 56, p. 471). In May, 1892, Hall's Safe & Lock Co. and the Trustees of Joseph L. Hall assigned to Herring-Hall-Marvin Co. thirty-two patents (Deft's. Ex. 271, p. 351).

Most of these had but a short time to run and all expired by 1897, three years before complainant came into existence (Pullen, pp. 70, 77; W. H. Hall, pp. 219, 220; E. C. Hall, pp. 241, 266).

The inventions patented by Mr. Hall had become common property and any one could make the safes formerly protected by said patents. During the life of the patents they had become popularly known and designated as "Hall's Patent," "Hall's Safes" &c., just as rubber prepared by Goodyear's patented process became known as "Goodyear's Rubber" and sewing machines made under Singer's patents, or Wheeler & Wilson's, had become known as "Singer Sewing Machines," and "Wheeler & Wilson Sewing Machines."

The fire-proof safes with a concrete filling made in accordance with Mr. Hall's patent of 1849 had stood the tests of several large fires, Chicago, Boston, Portland, Lynn, &c. and acquired a specially good reputation for their fire-resisting qualities. Defendants make their safes to-day, exactly as they were made in Mr. Hall's days, so far as fire-proof qualities are concerned, and their fire-proof safes are therefore the well known, fire-tested "Hall's Safes" (W. H. Hall, p. 219; E. C. Hall, pp. 240, 264, 265).

Safes formerly made by the Herrings and Marvins and others could not properly be so designated because they use a different kind of filling (W. H. Hall, p. 220).

The law is well established that after the expiration of patents protecting articles of manufacture which have become popularly known by the name of the inventor any one may make them and sell them by that name, the only restriction being that he must not use false or misleading labels, marks, or advertisements to induce purchasers to believe that the goods *he* manufactures are the product of another manufacturer.

Holzapfel's Co. v. *Rahtjens Co.* 183 U. S. 1, 13.
Singer Mfg. Co. v. *June Mfg. Co.* 163 U. S. 169, 185.
Goodyear Co. v. *Goodyear Rubber Co.* 128 U. S. 598.
Dover Stamping Co. v. *Fellows*, 163, Mass. 191, 194, 195.
Warren Featherbone Co. v. *American Featherbone Co.* 56 C. C. A. 544, 5[illegible]4.
Brill v. *Singer Mfg Co.* 41 O. S 127.
Centaur Co. v. *Heinsfurter*, 56 U. S. App. 7, 10, 13 to 16.
Same v. *Marshall*, 38 C. C. A. 413, 416, 417.
Wheeler & Wilson Mfg. Co. v. *Shakspear*, 39 L. J. Ch. 36.
Linoleum Mfg. Co. v *Nairn*, 7 Ch. Div. 834.

We therefore think the 5th exception to the opinion of the Circuit Court of Appeals for the Sixth Circuit (supra, p. 15) is well taken.

Defendants' alleged false advertising.

Plaintiff alleges that defendants advertise their product as "Hall's Safes," and "in every possible way deceive the public into the belief that . . . they are carrying on the business established by said Joseph L. Hall and afterwards carried on by said Hall's Safe & Lock Co. and Herring-Hall-Marvin Company and now carried on by your orator as successors of said concerns" (p. 8).

For specifications under this general charge, counsel for plaintiff introduces, among others, a number of advertisements cut from Munsey's Magazine, December, 1901, from the New York Sun of April 15, 1901; April

18, 1901; April 26, 1901; November 27, 1901; January 20, 1902; January 28, 1902, and February 13, 1902 (Plff's. Exhibits 4, 5, 6, 7, 24, 25, 26 and 27 pp, 413, 279, 280, 291, 292, 293), styling them "*Defendants' Advertisements.*" (Pullen, pp. 51, 62). There is no proof that defendants inserted them, or authorized them to be inserted, or that they are in any way responsible for them. They expressly deny all knowledge of, or responsibility for them. They did not insert them, or cause them to be inserted, or pay for them. In short, they did not know anything about them until February, 1902, and never *saw* them until they were produced as exhibits in this case. They appear to have been inserted and used by Kinsey, Rainier & Thompson, a firm in New York City dealing in safes and vaults of defendants' manufacture, who simply had a contract with The Hall's Safe Co. to furnish them with safes, as called for, at specified prices. They afterwards incorporated under the name of "Kinsey, Rainier & Thompson, Incorporated." Defendants had no interest in, or control over the business of either the firm, or this first corporation, and are in no way responsible for what they did or left undone, or for representations made by them. E. C. Hall afterwards, *in February, 1903*, incorporated another company under the laws of New York, known as "The Kinsey, Rainier & Thompson Company," which bought out "Kinsey, Rainier & Thompson, Incorporated," and himself took the bulk of the stock, but that is the first time any of the defendants had anything to do with Kinsey, Rainier & Thompsons. E. C. Hall, individually, is the only one of the respondents that has

any interest in the new company. When informed, in February, 1902, that such advertisements were being inserted in the Eastern papers, the defendant Company immediately got out a circular and mailed it to all dealers and agents, telling them they must stop advertising in that form (W. H. Hall, pp. 154, 155, 157; E. C. Hall, pp. 232, 233, 264; Defts. Ex. No. 339, p. 378). This appears to have been effectual, for plaintiffs have produced nothing after that date of a similar nature, except Ex. No. 13, 14, 15, (pp. 281. 282,). No. 23, (p. 439), No. 42, (p. 293), No. 49, (p. 466) and No. 50 (p. 299) which will now be considered.

Hagstette was an independent dealer in safes in New Orleans, who bought from the plaintiff up to January 1st, 1904. (Pullen, pp. 58, 76), when he ceased to buy from them and began buying from The Hall's Safe Co. The letterhead, return envelope and business card marked Exhibits 13, 14 and 15 (pp. 281, 282), are evidently a part of his old stock in trade, for it was about this time that Hagstette changed from one to the other, and defendants have never at any time used the expression, "Hall's Standard Safes," nor has any other dealer, buying their goods. They did not authorize any such statements, did not order the stationery or pay for it, and are not responsible in any way (W. H. Hall, p. 155).

Plff.'s Exhibit No. 23 (p. 439) appears to be an advertisement inserted in the "Manufacturer and Exporter," of May, 1904, by The Kinsey, Rainier & Thompson Co. *after* E. C. Hall became connected with it. None of the defendants knew anything about it until it was

produced in evidence; none of them authorized it or paid for it, or was responsible for it (W. H. Hall, p. 155; E. C. Hall, (p. 233). If there is anything wrong about it, the Kinsey, Rainier & Thompson Co. is responsible.

Plff.'s Exhibit No. 49 (p. 466) is an advertising card of the Howe Scale Co., of San Francisco, Cal.

They were simply dealers and bought safes from The Hall's Safe Co. and sold them again. (E. C. Hall, pp. 257, 266).

Plff.'s Exhibit No. 50 (p. 299) is the card of a salesman, who is not known to defendants, was not employed by them, and whose card was wholly unauthorized by them. (E. C. Hall, p. 258).

As to all those counts, defendants plead not guilty. There is no evidence to show that they are. Whether false or true, misleading or otherwise, defendants cannot be held responsible for them.

As the Court said in *Wyckoff* v. *Howe Scale Co.* 57, C. C. A., 510:

> "It may very well be said that it understood quite clearly that by thus using the name, defendant gave to all middle men and dealers, outside of its own agents opportunity and perhaps suggestion to misrepresent the parentage of the machines; but, if it had the right to use the same, *it cannot be held responsible for the consequences of such use*" (pp. 511, 512).

In *Brown Chemical Co.* v. *Meyer*, 139 U. S. 545, the Court says:

> "The similarities in the advertising cards or postals are undoubtedly much greater . . .

but as it appears from the testimony that the use of the posters has been discontinued and further that the defendants in this case never employed them or put them up, or authorized others to do so, it is clear that as against these defendants the court cannot now be properly called upon to enjoin them. If the bare act of posting these advertising cards were fraudulent the remedy is against the party who committed the wrong."

This case was followed in *Procter & Gamble Co.* v. *Globe Ref. Co.*, 92 Fed. 357.

In *Coats & Merrick Thread Co.*, 149 U. S. 573, after pointing out the distinguishing features of defendants' labels, the court said:

> "If the purchaser of such thread desires a particular make he should either call for such, in which case *the dealer if he put off on him a different make, would be guilty of fraud for which the defendants would not be responsible*, or should examine, himself, the lettering upon the spools."

Advertising Pages in Defendant's Catalogues.

We now come to certain advertising pages inserted in their illustrated catalogues for 1900 (gotten out in the fall of that year) and 1902 (gotten out in January) for which the defendant company is undoubtedly responsible. We refer to the cover and pages 21, 47 and 51 of Plff's. Ex. No. 18 (pp. 283 to 285) and the cover and pages 22, 48, 52, of Plff's. Ex. No. 19 (pp. 287 to 290). Except for the change in date from 1900 to 1902 and from "Sixty" to "Sixty two" years on the cover the exhibits are alike. The court should consider;

(a) Whether there are any misrepresentations contained in them.

(b) Whether such representations would lead the public to suppose defendants were selling plaintiff's goods.

(c) Whether such representations would lead the public to suppose defendants were carrying on the business of Hall's Safe & Lock Co.

(a) On the covers of these exhibits there appears a wreath with the words "SIXTY YEARS" and "SIXTY TWO YEARS" inscribed within, the date "1840" on the left, and the dates "1900" and "1902" on the right of the wreath. There are no statements or explanations with regard to this, and a person who did not know the facts might draw the false inference that The Hall's Safe Co. had been in existence for sixty years. This impression would be corrected by a reference to page 21 of Ex. No. 18 (p. 284), and p. 22, of Ex. No. 19 (p. 288), where the date of incorporation is correctly given as 1896.

These pages read as follows:

"1840 1900 (or 1902)

HISTORY OF HALL'S SAFES.

E. Hall & Co. established 1840
Joseph L. Hall & Co. established 1860
The Hall's Safe Co. established 1896

(Incorporated)

Three Generations of High-Grade Safe Making
Prove That Quality Tells."

Every statement made on these pages is substantially true, though there is some doubt as to when

E. Hall & Co. actually began business. (E. C. Hall, pp. 222, 235, 236, 240, 264; W. H. Hall, pp. 162, 163, 183, 184, 196, 197). There *were* three generations of high-grade safe makers making Hall's Safes. There is nothing to mislead the public and it does not hurt the plaintiff.

Pages 47, of Ex. No. 18 (p. 285), reads as follows:

"THE UNRIVALLED RECORD
of the
HALL'S SAFE
in the great fires of

Chicago,	Ill.
Boston,	Mass.
Lynn,	Mass.
Seattle,	Wash.

and the lesser fires all over the United States and in other countries, prove conclusively that

THE HALL'S SAFES ARE THE BEST!"

This is just as true as any puffing advertisement can be. The Hall's Safes did make a good record in the fires named, and probably that record is "unrivaled." The statement on p. 21 corrects the impression that might otherwise be produced that safes of The Hall's Safe Company's manufacture were in the great fires name. The Hall's Safes referred to were fire-proof safes, made with a concrete or cement filling in a manner originally patented by Joseph L. Hall about 1849. The Hall's Safe Company now makes safes in the same way, so far as fire-proof protection is concerned (W. H. Hall, pp. 185, 186, 219; E. C. Hall, pp. 240, 264, 265).

There is nothing to deceive the public, and nothing to injure plaintiff in such statements. Plaintiff ought rather to rejoice that defendants are advertising a safe which they, too, have the right to make and sell.

Page 51, of Ex. No. 18 (p. 286) begins with the statement:

"THE CHEAPEST INSURANCE IN THE WORLD

Did it ever occur to you that a

HALL'S SAFE

was the cheapest form of insurance?"

and ends with the statement:

"ALWAYS USE A HALL'S SAFE.

Our record of sixty years (1840 to 1900)

prove our position."

So far as puffing is concerned the remarks about p. 47 apply equally to this. The "Record of Sixty Years" is explained by reference to p. 21, as the *family* record, and not the record of The Hall's Safe Co. So understood, there is no statement that would not fall under the head of excusable puffing.

(b) There is nothing whatever about the covers, or these advertising pages, to suggest that The Hall's Safe Co. is selling The Herring-Hall-Marvin Safe Co's product. They are not mentioned, nor is there anything from which the existence of such a company could be inferred.

(c) The same is true of Hall's Safe & Lock Co. That Company was not an ancestor of defendants, and was not needed to illustrate the "three generations" theory. There is absolutely nothing to make the public

suppose the defendant Company was Hall's Safe & Lock Co., or was the successor of that Company, or was selling safes manufactured by that Company (W. H. Hall, pp. 183, 184, 197; E. C. Hall, p. 240).

Plaintiff can not claim to be injured by the puffing of Hall's Safes, as it makes and sells Hall's Safes. The more advertising, the better, so long as defendants do not claim that their safes are the product of the Herring-Hall-Marvin Safe Company. This they have never done, and have no thought of doing, as they believe a Hall's Safe made by themselves to be a better article than the Herring-Hall-Marvin Safe Co. can produce, and that they have a better reputation than the Herring-Hall-Marvin Co. (W. H. Hall, pp. 163, 164, 171, 172, 217, 218; E. C. Hall, pp. 230, 231, 232, 264).

The covers and advertising pages were objectionable just to the extent that they tended to create the false impression that The Hall's Safe Company had been in business sixty years or more. For this reason, at the suggestion of counsel, they recalled all their catalogues, as far as possible, in February, 1902, tore off the covers, cut out the advertising pages and put on new covers, stating the date of issue only, and re-issued them in the form shown in Defts. Ex. No. 340 (p. 488). These illustrated catalogues were not published for general circulation, but were put into the hands of dealers and agents and most of them were gotten in. They also printed a circular (Defts. Ex. No. 339, p. 378) and sent it to all their dealers, agents and salesmen, telling them to stop all advertising of the past history of the Hall's

Safes. (W. H. Hall, pp. 157, 188, 189; E. C. Hall, pp. 257, 264).

They also devised and registered a trade-mark, consisting of an eagle with outstretched wings, bearing a safe on its breast and a scroll in its talons, which they have applied to all their safes since August, 1902, and which is displayed on their letter heads and circulars and all stationery as rapidly as new stationery is called for. (Plff's. Ex. No. 48 p. 207; W. H. Hall, pp. 171, 172, 214, 215, 217). The individual names of E. C. Hall and Wm. H. Hall, as officers of the company, street address and number of P. O. Box appear on most of the stationery, illustrated circulars, etc., sent out by the company. (Plff's. Ex's No. 48, p. 297, and No. 46, pp. 456 to 464; W. H. Hall, pp. 217). In short, the company has taken all steps that can reasonably be required to differentiate their goods from plaintiff's, and from all preceding companies' output.

We think that neither the advertisements inserted by dealers nor the advertising pages in defendants' illustrated catalogue contained any representations that defendant Company was the old Hall's Safe & Lock Co., or its successor in business and that there was absolutely no ground for an injunction on this score.

This Court thought advertisements of exactly the same nature made by the Remington-Sholes Co. and dealers in its machines no ground for an injunction

Howe Scale Co. v. *Wyckoff*, 198 U. S. 118,

and that if advertisements made without authority by dealers were fraudulent, the remedy is against the party who committed the wrong.

Brown Chemical Co. v. *Meyer*, 139 U. S. 545.

Even if it should be thought proper to enjoin such advertising, the decree ought not to go further and enjoin the company from doing business in its corporate name, or from advertising and selling "Hall's Safes" marked with its corporate name and address. It is the office of an injunction to prevent the continuance of misconduct and not to *punish* defendants by depriving them of, or curtailing their natural rights.

In *Genesee Salt Co.* v. *Burnap*, 43 U. S. App. 243, 251, Judge Taft, after finding that plaintiff had the right to complain of defendant's marking his salt "Genesee Salt *Co.'s* Salt", added—

> "but the court was of opinion that it ought not enjoin the defendant from the use of the words 'Genesee County Salt' and 'Genesee Salt' in the sale of salt actually manufactured in Genesee County."

In *Singer M'f'g Co.* v. *June M'f'g Co.* 163 U. S. 169, 185, 199, 200, and *Singer M'fg Co.* v. *Bent*, 163 U. S. 205, the injunction was limited to the false and deceitful practices of marking the machines in a way to indicate that they were made in New York by the Singer Manufacturing Co., instead of being made in Chicago by the June M'f'g Co. In the latter case the court said—

> "The principal business office of the Singer M'f'g Co. is in the City of New York. In the so called trade mark of the defendant the letters 'S. M. Mfg. Co.' are preceded by the word 'New York' although there was no such company and the defendant had no factory or office there, but did business in Chicago

and bought in that city from the June M'f'g Co. the machines upon which it put the marks in question. There is no doubt that the marks were imitations of those used by the Singer Co. and were intended to deceive. . . . . .

"We should be obliged to allow the use of the name 'Singer' since that name, as we have already held in the case just described, fell into the domain of things public subject to the condition on the one who used it to make an honest disclosure of the source of manufacture."

In *Hoxie* v. *Chaney*, 143 Mass. 592, 597, the decree of the court below was modified so as to permit of defendant's continuing in the soap business and using his own name, but the court enjoined him from interfering with plaintiff's rights

"by representing himself, either directly or indirectly, as the successor of the late firm, or as doing the same business as was done by them."

In *Dodge Stationery Co.* v. *Dodge*, 145 Cal. 380, 392, 393, the Court sustained an injunction against the "J. S. Dodge Co." on the ground that defendant Dodge could not give his name to a second corporation after having given it to the complainant, but would not allow it as against Dodge individually, saying:

"The only object of a court of equity in such cases being, to protect against the *fraudulent representations it will go no further than is necessary to accomplish that result*. Any further step is an encroachment upon the legal rights of the defendant."

In *Centaur Co.* v. *Marshall*, 38 C. C. A. 413, 417, 419, Judge Sanborn said:

> "In cases to restrain unfair competition by the simulation of trade dresses it is only when the likeness deceives or will probably deceive the buyers into the purchase of the goods of one manufacturer or vendor as those of another and *only to that extent that it thus deceives that any legal injury results, or that a court of equity may grant relief.*"

> "If the use of these means of advertising was proof of an intent to deceive the public and to pirate the business of the appellent, *the discontinuance of their use is evidence of the abandonment of that intent.*"

The foregoing discussion of the facts and the authorities leads us to the conclusion that the 1st, 4th and 5th exceptions to the opinion and decree of the Circuit Court of Appeals for the Sixth Circuit (supra, pp. 14 and 15) are well taken; that no wrongdoing has been proven that would justify an accounting; and that the injunction, if any at all is granted, should be limited to restraining defendants from advertising or holding themselves out as the old Hall's Safe & Lock Co., or their successors in business. This is quite different from a mandatory injunction requiring, as a condition of their doing business in their own name that they shall accompany all use of that name with

> "explanatory matter showing that the product was their own and not that of the old company or its successor in business"

and that their business;

> "is not the business formerly carried on by Hall's Safe & Lock Company."

We submit that these requirements are as unnecessary as they are humiliating to selfrespecting business men.

Complainant's Deceptive Practices and Advertising.

We have seen that Complainant did not acquire from Hall's Safe & Lock Co., directly or indirectly, the right to use its name (supra, pp. 2, 4, 58, 59); that that company was not to continue in business, but was to go into liquidation and be dissolved (supra, p. 4). that it did in fact go into liquidation and was dissolved by decree of Court in July, 1895 (supra, p. 7); that dealers, agents and customers were duly notified by officers of the Herring-Hall-Marvin Company that Hall's Safe & Lock Co. was no longer in existence, that all signs on its factory and stores in Cincinnati, New York and Philadelphia were changed from Hall's Safe & Lock Co. to Herring-Hall-Marvin Co.; that all new stationery, envelopes, labels, &c , were ordered with the name of Herring-Hall-Marvin Co.; that the new illustrated catalogue gotten out as late as 1897 had the name Herring-Hall-Marvin Co. at the head of every page and that the names "Hall's Safe & Lock Co.", "Hall's Safes" and "Hall's Standard Safes" did not appear anywhere in it; that the product of the new Company was all marked with the name of the Company and the place of manufacture or sale; that Herring-Hall-Marvin Co. spent no money in advertising "Hall's Safes", "Hall's Standard Safes", or "Hall's Safe & Lock Co."; that the name, Hall's Safe & Lock Co., was taken out of all City and Business Directories in

1892 and did not appear again until 1904; that Herring-Hall-Marvin Co. abandoned the old Hall's Safe & Lock Works and moved to a new factory at Hamilton, O. and did not thereafter have any office, or place of business in Cincinnati (supra, pp. 59 to 62). There was no attempt on the part of anybody to pretend that Hall's Safe & Lock Co., was still in existence, until after the sale by the Receivers of Herring-Hall-Marvin Co. to Complainant, consummated December 28th, 1900. This was more than four years after The Hall's Safe Co. had been incorporated and had engaged in business in Cincinnati. Then the new Company took a series of steps, all calculated to deceive the public and to induce it to believe that Hall's Safe & Lock Co. was still in existence and doing business in Cincinnati. In the winter of 1901 it began to use, in its business, envelopes with the return address "HALL'S SAFE & LOCK CO., CINCINNATI." on them, although that Company had been out of business for nearly nine years, and neither it, nor complainant, then had any place of business in Cincinnati. The effect of this would be, of course, to swell the volume of mail addressed to Hall's Safe & Lock Co. at Cincinnati, all of which was regularly forwarded to Hamilton, to give a fictitious aspect of "good will" to the old Company, and to enable complainant to pick up all carelessly addressed letters intended for The Hall's Safe Co., who *were* doing business in Cincinnati. (Defts.' Ex. No. 347, pp. 490 to 493; Pullen, pp. 71, 72, 84).

Another step was to prepare an advertisement in the Herring-Hall-Marvin Safe Co.'s office, at Hamilton, and cause it to be inserted in the classified business directory

of Cincinnati, 1904, under the head "Safe Manufs.," in large type—

"HALL'S SAFE & LOCK CO., THE,"

And underneath in very small type—

"(See Herring-Hall-Marvin Safe Co.)"

The Hall's Safe & Lock Co. was not in existence, and the Herring-Hall-Marvin Safe Co. had no place of business in Cincinnati at the time. No such name had appeared in Cincinnati Directories for twelve years (Defts. Ex. No. 203, p. 305; Pullen, pp. 81, 84).

The next step was to insert in Trow's Business Directory of Greater New York, 1904, at page 1246 the following advertisement:

"HALL'S
STANDARD
SAFES.

We give you the benefit of our *sixty years'* experience in the manufacture of Fire and Burglar-Proof Safes, Bank Vaults, Safe Deposit Vaults, Locks, etc.

HALL'S SAFE & LOCK CO.,
400 Broadway,
Telephone, 3093 Franklin."

The address and telephone number are those of complainant, the effect, of course, is to induce the belief that Hall's Safe & Lock Co. is still in existence and can be reached or addressed at 400 Broadway. No such

advertisements appeared while Herring-Hall-Marvin Co. or its receivers were in charge of the business (Defts. Ex. No. 204, p. 306; Pullen, pp. 82, 83).

The name "Hall's Safe & Lock Co., 400 Broadway," with telephone number, and without any explanation, was also inserted by plaintiff in the Telephone Directories of New York City. (Defts. Ex.'s 205, 206, p. 307; Pullen, p. 82). The address and telephone number were those of plaintiff (Pullen, p. 82).

Complainant also caused an advertisement to be inserted in the St. Louis Directory for 1904, under the head of SAFE MANUFACTURERS, as follows:

"Hall's Safes, Hall's Safe & Lock Company,

706, 708 Washington Ave., Largest Safe Store and most complete stock in the United States"

the address given being that of Complainant's Store.

Complainant also caused to be inserted in the General Directory for St. Louis, 1904, in its alphabetical order, the name, **"Hall's Safe & Lock Company,** 706 Washington Ave.", the address given being that of the Herring-Hall-Marvin Safe Co's Store. (Stipulation 7. p. 271).

In February and March, 1904, plaintiff caused advertisements, of which the following is a copy, to be inserted in all the Baltimore papers several times a week.

THE ONLY OFFICE OF

Hall's Safe and Lock Company,

Of Cincinnati, Ohio,

IS LOCATED AT

Hoen Building

Lexington and North Sts.

MAKE NO MISTAKE

Telephones { **Courtland 970** / **Mt. Vernon 2506**

This is absolutely false in letter and in spirit, and it bears evidence on its face that it was intended to injure defendants, whose sales in Baltimore had reached a fair amount and were rapidly increasing. Every intended customer of The Hall's Safe Company, of Cincinnati, a real company, with a real place of business, who read and believed those advertisements might be diverted from defendants' dealers to plaintiff's store. (Defts. Ex.'s No. 208, p. 308; No. 405, p. 506; Stipulation, pp. 270, 271; Pullen, pp. 83, 84).

In May or June, 1904, plaintiff opened a store for the sale of safes in Chicago. Over the windows it placed a sign, in large, raised, gilt letters:

"HALL'S SAFE & LOCK CO.
HERRING-HALL-MARVIN SAFE CO."

and underneath, in small yellow painted letters, the

word "successors" (Defts. Ex. No. 399, p. 501; Stipulation p. 270). The latter would hardly be noticed. The plain purpose of this sign was to mislead the public and to induce them to enter on the understanding that Hall's Safe and Lock Co. was still in existence and doing business at that place. The Hall's Safe & Lock Co. of Illinois, tried to enjoin complainant from maintaining this sign, but failed, because it, too, was usurping a name to which it had no just title.

Similar signs have been put up in St. Louis and the name "Hall's Safe & Lock Co." has been given greater prominence on the windows of plaintiff's New York store since this suit was commenced. The word "successor" is not used at all in connection with either the New York, or St. Louis Stores (Deft's Ex. 400, 403, pp. 502 to 505; Stipulation, p. 270).

After the commencement of this suit, complainant opened an office in the First National Bank Building at Cincinnati, never before having had a place of business in that city. On the windows, opposite the elevators, in large gilt letters, are the words

"HALL'S SAFE & LOCK CO.,
HERRING-HALL-MARVIN SAFE CO."

with no connecting link between them, (Pullen, p. 84; W. H. Hall, pp. 152, 153; E. C. Hall, p. 234).

The purpose in coming to Cincinnati and hoisting the sign "Hall's Safe & Lock Co.," more than twelve years after it had been wiped out, is plainly to give color to such deceptive advertisements as appeared in the Baltimore papers, and to divert trade from the defendant

company, which is the only company of a like name in existence and which had been in business in Cincinnati for eight years before.

We think that complainant does not come into Court with clean hands: that it has been guilty of the unfair competition and attempts to confuse the public, of which it complains; and that, by reason of these false and misleading advertisements it has forfeited any right it might have had to equitable relief.

As this Court says, in *Worden* v. *California Fig Syrup Co.*, 187 U. S., 516;

> "When the owner of a trade-mark applies for an injunction to restrain the defendant from injuring his property by making false representations to the public, *it is essential that the plaintiff should not in his trade-mark or in his advertisements and business be himself guilty of any false or misleading representation*, and if he makes any material false statement in connection with the property which he seeks to protect, he loses his right to claim the assistance of a court of equity; and where any symbol or label claimed as a trade-mark is so constructed, or worded as to make or contain a distinct material assertion which is false, no property can be claimed in it; or, in other words, the right to the exclusive use of it can not be maintained."

And again, in *Manhattan Medicine Co.* v. *Wood*, 108 U. S., 222, 223, 227:

> "These statements" (as to name of manufacture and place of manufacture) "were deemed important in promoting the use of the article and its sale, or they would not have been continued by the assig-

nees of the original inventors, and yet they could not be used with any honest purpose when both statements had ceased to be true. It is not honest to state that a medicine is manufactured by Moses Atwood, of Georgetown, Mass., when it is manufactured by the Manhattan Medicine Co., in the City of New York." (p. 222).

"The object of the trade-mark being to indicate by its meaning or association the origin or ownership of the article, it would seem that when a right to its use is transferred to others, either by the act of the original manufacturer or by operation of law, the fact of transfer should be stated in connection with its use; otherwise a deception would be practiced upon the public, and the very fraud accomplished to prevent which Courts of Equity interfere to protect the exclusive right of the original manufacturer. . . . . .

"To put forth a statement, therefore, in the form of a circular, or label attached to an article, that it is manufactured in a particular place, by a person whose manufacture there had acquired a great reputation, when in fact it is manufactured by a different person, is a fraud upon the public, which no court of equity will countenance" (p. 223). . . . .

"An exclusive privilege for deceiving the public is assuredly not one that a court of equity can be required to aid or sanction. To do so would be to forfeit its name and character" (p. 227).

In *Knoedler* v. *Glaenzer*, 55 Fed. 895, 900, the Court said:

"If Knoedler & Co. had confined themselves to the authorized use of the words Goupil & Co., holding themselves out merely as *successors* during

the past thirty years, there would have been no occasion for this suit. The reputation of the successors would gradually have become substituted for that of the predecessors; the transfer of the good will, or 'probably that the old customers will resort to the old place,' would have been complete, and the new body of customers would have had no interest except in the new firm."

In *Raymond* v. *Royal Baking Powder Co.*, 29 C. C. A. 245, 249, the Court said:

"The label falsely purported to be printed by George Barnwood & Co., Printers, 402 Oxford St. It sought to convey the impression that the product was an imported article made in London. It was adapted and intended to deceive the public. Under such circumstances no right arises which the law will countenance—*Courts will not lend their aid to protect imposition.*"

In *Hegeman & Co.* v. *Hegeman*, 8 Daly, 3, 22.

"The purchaser from the assignee of Hegeman & Co. of the trade-mark, good will, etc., sold to a corporation organized under name of Hegeman & Co. all the rights acquired, and this corporation advertised its business under the style of Hegeman & Co. and issued a circular stating that the concern of H. & Co. had *resumed business* and generally conducted its business as if it were a continuation of the old firm; *Held:* That the purchase from the assignee did not confer on the purchaser the right to do business under the name of Hegeman & Co., but only as the *successor* of that firm, and that the manner in which the corporation was doing business was a fraud on the public and that as long as it continued so to do, a court of equity would not

enforce against infringers thereof its rights to the good will and trade-mark of the old firm of Hegeman & Co." (Syl. 3, 22).

See also

Krauss v. *Peebles' Sons Co.*, 58 Fed. 587.
Buckland v. *Rice*, 40 O. S. 526.
Connell v. *Read*, 128 Mass. 477.
Siegert v. *Abbott*, 61 Md. 276.
Prince Mfg. Co. vs. *Prince's Metallic Paint Co.*, 135 N. Y. 24.

We believe the court erred in not sustaining the special defense and dismissing plaintiff's bill on the ground that it was imposing on the public, and trying to induce it to believe that the old Hall's Safe & Lock Co. was still engaged in business, and we believe the second assignment of error (supra, p. 14) is well founded.

Complainant should be enjoined from doing business as Hall's Safe & Lock Co. and from advertising or representing in any manner that Hall's Safe & Lock Co. is still in existence.

The Respondent, The Hall's Safe Co., filed a cross-bill based on the same grounds as the special defense and also on a flagrant abuse of the mail privileges which plaintiff has been enjoying at the expense of the defendant company.

Plaintiff's abuse of Mail Privileges.

When Herring-Hall-Marvin Co. succeeded to the business of Hall's Safe & Lock Co., it continued to receive all mail addressed to that company as a matter

of course. It continued to receive it after the organization of The Hall's Safe Co., and after its own removal to Hamilton, without protest on the part of the latter. The same was true of the Receivers of H.-H.-M. Co. In the main, these acted fairly, and defendants received the mail which "*plainly belonged to them*," with a reasonable degree of promptness. The annoyance of having several letters opened every week and read by others before receiving them, themselves, was borne with patience as, with each succeeding year, it was believed that mail addressed to "Hall's Safe & Lock Co.," which ceased to do business in May, 1892, would become less and less, and gradually there would be no ground for withholding any mail. The percentage of all letters addressed "Hall's Safe & Lock Co." which "*plainly belonged*" to defendants was steadily increasing and the total of letters so addressed was constantly falling off (Pullen pp. 63, 64, 72). This would have continued but for the course recently adopted by plaintiff, in advertising "Hall's Safe & Lock Co." in city and business directories and in magazines and newspapers, as if it were still in existence, in using envelopes conspicuously marked "HALL'S SAFE & LOCK CO., CINCINNATI, OHIO," and in putting up prominent signs, "HALL'S SAFE & LOCK CO." over its stores and branches in the various cities, indicating to the passer-by and casual observer that "Hall's Safe & Lock Co." was still in existence and doing business at such places. (E.C. Hall pp. 234, 235). These are calculated to mislead the public; are false, in fact, and must necessarily result in more or less confusion. It is apparent that such artificial stimulus has had

more or less effect in keeping up the volume of mail wrongly addressed "Halls Safe & Lock Co.," whether intended for plaintiff or for the defendant company. It ought to be stopped.

As plaintiff came into existence four years after the defendant company, it ought to have some regard for its rights, and not initiate a course of conduct which was never resorted to by its predecessors, or the receivers.

It would be stopped at once, if plaintiff were enjoined from receiving any mail addressed to Hall's Safe & Lock Co., Cincinnati, O., and was limited to mail addressed to "*Successor of* Hall's Safe & Lock Co." The volume of letters so addressed would fall off at once, if plaintiff was enjoined from holding itself out to the public as "Halls Safe & Lock Co.," or from falsely representing that "Hall's Safe & Lock Co." was still in existence. We think equity demands that plaintiff should be restrained from keeping up this unfair competition, and, incidentally, opening several hundred letters a year *plainly belonging* to defendants. Mr. Pullen testified, "unless there was some direct conclusion that the letter was intended for the Hall's Safe Co., it was retained." (Pullen, pp. 71, 72).

Mr. W. H. Hall testifies that the only letters which ever reached The Hall's Safe Co., through the Herring-Hall-Marvin Safe Co., were letters containing remittances, or bills, or relating to orders already entered, about which there could be no possible mistake, and that never to his knowledge did he receive a letter from that company making original inquiries or offers of new business. (W. H. Hall, pp. 164, 165).

Many letters containing remittances are delayed from three to ten days. Some letters are withheld entirely, and some, after being held for several days, are returned to the writer, instead of being forwarded to defendants. A flagrant instance of this kind occured just before the testimony of W. H. Hall was taken in this case, and, as a result, defendants were prevented from bidding on specifications of work for the "Produce Exchange Safe Deposit and Storage Co.," of New York City (Deft's Exs. Nos. 350 to 385, pp. 379 to 398; W. H. Hall, pp. 164, 165, 168, 169; E. C. Hall, pp. 234, 235).

It is for the interests of the public, as well as of defendants, that this abuse should be stopped. Was it for the advantage of the Produce Exchange S. D., etc., Co., that The Hall's Safe Co. should be deprived, by a trick, of an opportunity to bid on its work? The plaintiff, having demonstrated sufficiently that it can not be trusted to deal fairly in such matters, should either be deprived entirely of the privilege of receiving and opening letters not plainly addressed to it or to the "Successor of Hall's Safe & Lock Co.," or should be regulated in some efficient way by the Court of Equity to which it appeals.

In *Dr. D. Kennedy Co.* v. *Kennedy*, 165 N. Y. 353, where Dr. David Kennedy had conveyed to the company "the sole, absolute and only right to use the names Dr. David Kennedy, Rondont, N. Y." etc. the Court appointed a referee to open and distribute the mail, after Dr. Kennedy left the company and resumed his

practice as, in the state of feeling that existed, neither could be depended on to do exact justice to the other.

The cross-bill prayed among other things that plaintiff be enjoined:

> "from carrying on the business of manufacturing and selling fire or burglar proof safes, vaults, etc., under the name of "Hall Safe & Lock Co.," "Hall's Safe & Lock Works," or under any other name than the name whereby it is authorized by its articles of incorporation to contract and sue and to be sued, to-wit, "Herring-Hall-Marvin Safe Co.," and from inserting the name "Hall's Safe & Lock Co." in any directories or publications, or in advertisements, and from using said name on its signs, stationery and envelopes, * * * and from doing any act tending to * * * lead the public to suppose that Hall's Safe & Lock Co. is still in existence and manufacturing safes."

We do not, now, object to complainants' advertising and holding itself out as the *successor to* Hall's Safe & Lock Co. for that would advise the public of the fact that the old company is no longer in business and the complainant would obtain just such credit as belongs to a *successor* and no more. The Court below dismissed the cross-bill on the theory that complainant acquired the right to use the name "Hall's Safe & Lock Co.," in its business. The Circuit Court of Appeals could not go so far, but still concurred in the dismissal of the cross-bill. Judge Severens, in his opinion, says:

> "In respect to the matter of the cross-bill, we think there is no substantial ground for complaint. For the reasons stated in the preceding opinion we

> are not prepared to say that the complainant in the original bill has exceeded its rights in endeavoring to maintain the benefits of its purchase from the Hall's Safe & Lock Co." (Record, p. 516).

The effect of this is to sanction the use, on its envelopes and stationery of the name "Hall's Safe & Lock Co., Cincinnati" without any explanation whatever as to complainant's relation to it; to sanction the insertion in City directories of the name, "Hall's Safe & Lock Co.," without any explanation, as if it were still in existence and doing business at the address given; and to sanction such advertisements as those published in the Baltimore papers (Supra, p. 95). In fact, there is no limit to the extent to which complainant may go, in holding itself out as Hall's Safe & Lock Co., and in trying to persuade the public that that company is still in existence.

We submit that this is in direct violation of the contract entered into between the original parties, contrary to fact, and should not be tolerated, and that the third assigment of error (Supra, p. 14) is well taken.

SUMMARY.

By agreement of both parties to the sale of May, 1892, Hall's Safe & Lock Co. ceased to do business, went into liquidation and was dissolved. Herring-Hall-Marvin Co. acquired its property, succeeded to its business, but did not acquire its franchise, stock or the right to use its name. Herring-Hall-Marvin Co. had the right to advertise and hold itself out as *successor to* Hall's Safe & Lock Co., but no right to represent itself as *being* Hall's Safe & Lock Co., or to represent, contrary to the fact, that Hall's Safe & Lock Co. was still in existence.

Complainant acquired no greater rights than those secured under the contract and exercised by the original Herring-Hall-Marvin Co.

Respondents had the right to incorporate as The Hall's Safe Co. and to do business in that name; but no right to advertise and hold themselves out as *successors* to the old Hall's Safe & Lock Co., or as *being* Hall's Safe & Lock Company.

The Hall's Safe Co. has the right to manufacture, advertise and sell "Hall's Safes," but no right to represent that such Safes are made by Herring-Hall-Marvin Safe Co., or its predecessors in business.

There being no evidence that The Hall's Safe Co. ever has advertised and held itself out as Hall's Safe & Lock Co. or its successor in business, or ever has sold "Hall's Safes" as the product of complainant or its predecessors, but has on the contrary, taken reasonable precautions to distinguish its business and product from

that of complainant, the bill of complaint should be dismissed.

It appearing from the evidence that complainant has been guilty of practices and advertising calculated to deceive the public, it should be enjoined from holding itself out as Hall's Safe & Lock Co., from doing business or appearing to do business in that name and from representing that Hall's Safe & Lock Co. is still in existence and engaged in business, anywhere.

All mail addressed to "Hall Bros.," "Hall Bros. Safe Co.," "The Hall Company," "The Hall Boys," "Joseph L. Hall's Sons," or to any similar name, Cincinnati, O., should be delivered to respondents by the postmaster at Cincinnati, O. All mail addressed "Hall's Safe & Lock Co., Cincinnati, O." without any indication that it is intended for the *successor* of that Company should be delivered to a referee to be appointed by the Court below, to be opened by him and sent promptly to the party to whom it properly belongs.

Respectfully submitted:

JUDSON HARMON,
WILLIAM C. COCHRAN,

Counsel for Respondents and the Cross-Petitioner.

HERRING-HALL-MARVIN SAFE COMPANY *v.* HALL'S SAFE COMPANY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 136. Argued January 30, 1908.—Decided February 24, 1908.

Donnell v. *Herring-Hall-Marvin Safe Co., ante*, p. 267, followed as to construction of the contract involved in that case and this, and as to the rights of stockholders to carry on business under their own name.

Although the trade-name may not be mentioned in the sale of a business taken over as a going concern, a deed conveying trade-marks, patent-rights, trade-rights, good will, property and assets of every name and nature is broad enough to include the trade-name under which the vendor corporation and its predecessors had achieved a reputation.

The name of a person or town may become so associated with a particular product that the mere attaching of that name to a similar product without more would have all the effect of a falsehood, and while the use of that name cannot be absolutely prohibited, it can be restrained except when accompanied with a sufficient explanation to prevent confusion with the product of the original manufacturer or original place of production.

146 Fed. Rep. 37, modified and affirmed.

THE facts are stated in the opinion.

Mr. Lawrence Maxwell, Junior, with whom *Mr. Charles H. Aldrich* was on the brief, for petitioner:

"Hall's Safes" was a trade-name of the old concern indicating the source of manufacture.

The safes made by the old concern were called "Hall's Safes," and advertised by that name. It was the short name for them in the trade; in other words, their trade-name. It did not denote a particular kind of safe, but the origin of manufacture. This is admitted by the answer.

The trade-name passed to the purchaser as part of the good will of the old concern. Sebastian on Trade-Marks (4th ed.), 308; *Menendez* v. *Holt*, 128 U. S. 514; *Brown Chemical Com-*

pany v. *Meyer*, 139 U. S. 540, 548; *Le Page Co.* v. *Russia Cement Co.*, 51 Fed. Rep. 941, 943; *Russia Cement Co.* v. *Le Page*, 147 Massachusetts, 206.

The defendants were not entitled to appropriate the good will of the old concern by carrying on business under a corporate title substantially the same, and by calling their product "Hall's Safes." *Menendez* v. *Holt*, 128 U. S. 514, 521, 522; *Russia Cement Co.* v. *Le Page*, 147 Massachusetts, 206; *Hoxie* v. *Chaney*, 143 Massachusetts, 592; *Chas. S. Higgins Co.* v. *Higgins Soap Co.*, 144 N. Y. 462; *Dodge Stationery Co.* v. *Dodge et al.*, 145 California, 380; *Holmes, Booth & Haydens* v. *Holmes, Booth & Atwood Mfg. Co.*, 37 Connecticut, 278; *Myers* v. *Kalamazoo Buggy Co.*, 54 Michigan, 215; *Smith* v. *Brand & Co.*, 58 Atl. Rep. (N. J.) 1029; *Trego* v. *Hunt*, App. Cas. 7; *Duryea* v. *Nat. Starch Mfg. Co.*, 79 Fed. Rep. 651; *Howe Scale Co.* v. *Wyckoff, Seamans & Benedict*, 198 U. S. 118, discussed and distinguished from case at bar.

The injunction awarded by the Circuit Court of Appeals is inadequate on any theory of the plaintiff's rights. It does not give proper protection against infringement by the defendants of plaintiff's rights. It is not sufficiently definite and specific. *New York, New Haven & Hartford R. R. Co.* v. *Interstate Commerce Commission*, 200 U. S. 361, 404; *Singer Mfg. Co.* v. *June Mfg. Co.*, 163 U. S. 169, 204; *Dodge Stationery Co.* v. *Dodge et al.*, 145 California, 380.

The cross bill was properly dismissed. The claim that the plaintiff was not entitled to a decree on its bill because it had been guilty of false representations, and that the defendant was entitled to a decree on its cross bill, is based upon the erroneous assumption that the plaintiff did not acquire the right to use the old name in connection with the business which it purchased. Good will or a trade-mark or a trade-name may not be sold by itself, but it may be transferred in connection with the sale of a plant, and it is no fraud on the public for the purchaser to use the old name or mark. *Brown Chemical Co.* v. *Meyer*, 139 U. S. 540, 548; *Menendez* v. *Holt*, 128 U. S.

514; *Kidd* v. *Johnson*, 100 U. S. 617; *Richmond Nervine Company* v. *Richmond*, 159 U. S. 293, 302.

Mr. Judson Harmon and *Mr. William G. Cochran* for respondents:

The contentions of the petitioner in this case are concluded by the decision of this court in the case of *Howe Scale Company* v. *Wykcoff, Seamans & Benedict*, 198 U. S. 118. Wherever the parallel between the two cases fails, the case against the Remingtons was much stronger than the case against the Halls. The following cases are to the same effect: *National Starch Co.* v. *Duryea*, 41 C. C. A. 244; *Montreal Lithographing Co.* v. *Sabiston*, App. Cas. 610; *Knoedler* v. *Boussod*, 47 Fed. Rep. 465, 466; *Knoedler* v. *Glaenzer*, 55 Fed. Rep. 895; *Bassett* v. *Percival*, 5 Allen, 345, 347; *Lawrence* v. *Hull*, 169 Massachusetts, 250; *Marcus Ward & Co.* v. *Ward*, 40 N. Y. St. Rep. 792; *Morgan* v. *Schuyler*, 79 N. Y. 490, 494; *Williams* v. *Farrand*, 88 Michigan, 473. See also *Moreau* v. *Edwards*, 2 Tenn. Ch. 347, 349; *McGowan Bros. Pump Co.* v. *McGowan*, 22 Ohio St. 370; *Chattanooga Med. Co.* v. *Thedford*, 58 Fed. Rep. 347, 349; *Fish Bro. Wagon Co.* v. *LaBelle Wagon Works*, 82 Wisconsin, 546, 563; *Hazelton Boiler Co.* v. *Hazelton*, 142 Illinois, 495, 507, 508 (distinguishing *Frazer* v. *Frazer Lubricator Co.*, 121 Illinois, 147); *Helmbold* v. *Helmbold Mfg. Co.*, 53 How. 457, 459; *Horton Mfg. Co.* v. *Horton Mfg. Co.*, 18 Fed. Rep. 817.

In view of the absence of any express license to use the name of Hall's Safe & Lock Company, the provision, on the contrary, that the name of the new company shall be Herring-Hall-Marvin Company, the further provision for the dissolution of Hall's Safe & Lock Company and the above authorities, Judge Clark erred in holding that the Herring-Hall-Marvin Company acquired the good will, with the right to use the trade-name, if it chose to do so, and undoubtedly with the exclusive right to manufacture and sell the trade product known to the markets of the country as the Hall's Safes, and the Circuit Court of Appeals was right in modifying the injunction and

permitting the use of the family name "Hall" in the name of the new company.

The principles for which we contend are recognized in many of the cases cited by complainant. See *Holmes, Booth & Haydens* v. *Holmes, Booth & Atwood Co.*, 37 Connecticut, 295; *Trego* v. *Hunt*, App. Cas. 7.

MR. JUSTICE HOLMES delivered the opinion of the court.

This is the suit referred to in *Donnell* v. *Herring-Hall-Marvin Safe Company, ante*, p. 267. It was brought by the petitioner against the respondents to enjoin them from carrying on their business under their present name or any name calculated to make purchasers believe that they are dealing with the establishment founded by Joseph L. Hall, or with the plaintiff, and also to enjoin them from advertising or marking their product as Hall's Safes. The facts are stated in the case referred to. In brief, the petitioner is the successor by purchase to the business of Hall's Safe and Lock Company, an Ohio corporation founded by Joseph L. Hall, a safe maker of repute, the stock of which belonged to his estate and his children. The respondents are sons of Joseph L. Hall and an Ohio corporation formed by them in September, 1896, immediately after they were discharged from their contracts with the purchasing company. It has been decided that the Halls did not give up the right to do business in their own name by the part they took when the original company sold out, and that the petitioner has the right, but not the exclusive right, to use the name Hall. Its rights arise by way of succession, out of the priority of the original company, not out of contract. This case requires us to discuss a little further what the respective rights of the parties are. The decision below is to be found in 146 Fed. Rep. 37, and 76 C. C. A. 495.

We think it clear, as was conceded in the other case, that the plaintiff got all the grantable rights of the original company, including that of using the name Hall. It is true that trade names were not mentioned in the deed, but its language

was broad enough to include them. The deed, along with the plant, patterns, stock of safes, accounts, papers, etc., conveys all "trade marks, patent rights, trade rights, good will, and all its property and assets of every name and nature," and agrees that the business is "taken over in all respects as a going concern." If a particular phrase is needed in addition to the general language and the nature of the transaction, "trade rights" will do well enough. The name Hall was used and was expected to be used as a part of the name of the first purchasing company, The Herring-Hall-Marvin Company. There was a stipulation in the deed that the seller should be wound up, but that, far from being, as was argued, a provision in favor of the seller to avoid the use of its name by the purchaser, was a covenant to the purchaser in aid of the seller's undertaking not to engage in any business thereafter. The Hall Safe and Lock Company expressly and in reiterated terms sold all its property and assets of every description as a going concern, agreed to disappear and disappeared. It had no reason for retaining any right and retained none, except the right to be paid. The circumstances of the case raise none of the nice questions that sometimes have arisen as to when the name is sold along with the other assets. It may be that, although the deed conveyed all that it could convey, the plaintiff could not use the corporate name proper of the original corporation, because that is a charter right, and could not be exercised without the consent of the legislature. *Montreal Lithographing Co.* v. *Sabiston* [1899], A. C. 610. But that is not what it wants to do. It only wants so far as it may to appropriate the name "Hall" for its safes.

The original company, from 1867 to 1892, was attaching to Hall's safes the reputation that made the name famous and desired. Whoever achieved it did so through the medium of the company. The good will thus gained belonged to the company, and was sold by it, with all its rights, when it sold out. See *Le Page Co.* v. *Russia Cement Co.*, 51 Fed. Rep. 941, 943. So that the question is narrowed to what its rights would have

been at the present day if it had kept on. The advantage which it would have had, and to which the petitioner has succeeded, is that of having been first and alone for so long in the field. Some of the Halls might have left it and set up for themselves. They might have competed with it, they might have called attention to the fact that they were the sons of the man who started the business, they might have claimed their due share, if any, of the merit in making Hall's safes what they were. *White* v. *Trowbridge*, 216 Pa. St. 11, 18, 22. But they would have been at the disadvantage that some names and phrases, otherwise truthful and natural to use, would convey to the public the notion that they were continuing the business done by the company, or that they were in some privity with the established manufacture of safes which the public already knew and liked. To convey that notion would be a fraud, and would have to be stopped. Therefore such names and phrases could be used only if so explained that they would not deceive.

The principle of the duty to explain is recognized in *Howe Scale Co.* v. *Wyckoff, Seamans & Benedict*, 198 U. S. 118. It is not confined to words that can be made a trade-mark in a full sense. The name of a person or a town may have become so associated with a particular product that the mere attaching of that name to a similar product without more would have all the effect of a falsehood. *Walter Baker & Co.* v. *Slack*, 130 Fed. Rep. 514. An absolute prohibition against using the name would carry trade-marks too far. Therefore the rights of the two parties have been reconciled by allowing the use, provided that an explanation is attached. *Singer Manufacturing Co.* v. *June Manufacturing Co.*, 163 U. S. 169, 200, 204; *Brinsmead* v. *Brinsmead*, 13 Times L. R. 3; *Reddaway* v. *Banham* [1896], A. C. 199, 210, 222; *American Waltham Watch Co.* v. *United States Watch Co.*, 173 Massachusetts, 85, 87; *Dodge Stationery Co.* v. *Dodge*, 145 California, 380. Of course the explanation must accompany the use, so as to give the antidote with the bane.

We must assume that the name Hall in connection with safes has acquired this kind of significance. This, or very nearly this, is alleged by the answer and must have been the finding of the courts below. It was suggested that really the value of the name was due to the use of patents that have run out. But we think it appears that the meaning of the name is not confined to the use of Hall's patents, and further, has had a particular succession of makers so associated with it that the principle of the injunction granted is right. The defendants say that they have corrected advertisements, and so forth, that might be deemed fraudulent, when called to their attention. But the name of the defendant company of itself would deceive unless explained. It may have repented but it has transgressed, and it even now asserts rights greater than we think it has. Therefore the injunction must stand.

We are not disposed to make a decree against the Halls personally. That against the company should be more specific. It should forbid the use of the name Hall, either alone or in combination, in corporate name, on safes, or in advertisements, unless accompanied by information that the defendant is not the original Hall's Safe and Lock Company or its successor, or, as the case may be, that the article is not the product of the last named company or its successors. With such explanations the defendants may use the Hall's name, and if it likes may show that they are sons of the first Hall and brought up in their business by him, and otherwise may state the facts.

There is a cross bill seeking to prevent the plaintiff from making use of the names Hall's Safe and Lock Company, Hall's Safe, &c., but it does not need separate consideration. The defendant shows nothing of which it can complain or which should bar the plaintiff from its relief. The portion of the decree dismissing the cross bill is affirmed.

Decree modified and affirmed.